

By Mr. LORIMER: Paper to accompany bill for relief of William Sooy Smith—to the Committee on Military Affairs.

By Mr. McKINNEY: Petition of the Daily Mail, Moline, Ill., against tariff on linotype machines—to the Committee on Ways and Means.

Also, petition of the town board of Ursa, Ill., for an appropriation to improve the banks of the Mississippi River between Quincy and Warsaw, Ill.—to the Committee on Rivers and Harbors.

By Mr. McMORRAN: Paper to accompany bill for relief of Jemina Grigg (previously referred to the Committee on Invalid Pensions)—to the Committee on Pensions.

By Mr. MOORE of Pennsylvania: Petitions of Silver Crescent Council, No. 3, Daughters of Liberty, of Philadelphia, Pa.; Spring Garden Council, No. 18, Junior Order United American Mechanics; Egyptian Council, No. 144, Daughters of Liberty; Liberty Bell Council, No. 76, Daughters of Liberty, of Philadelphia, Pa., and Samuel H. Ashbridge Council, No. 1026, Junior Order United American Mechanics, favoring restriction of immigration (S. 4403)—to the Committee on Immigration and Naturalization.

Also, petition of the Franklin Printing Company, of Philadelphia, Pa., against tariff on linotype machines—to the Committee on Ways and Means.

By Mr. NORRIS: Petitions of the Reformed Presbyterian Church, the First Presbyterian Church, and the Methodist Episcopal Church, all of Superior, Nebr., for a constitutional amendment abolishing polygamy—to the Committee on the Judiciary.

By Mr. OVERSTREET: Paper to accompany bill for relief of Emily Weiland, widow and heir of Carl Weiland—to the Committee on War Claims.

By Mr. OLCOTT: Paper to accompany bill for relief of Henry A. Fuller—to the Committee on Invalid Pensions.

By Mr. PAYNE: Paper to accompany bill for relief of George S. Clark—to the Committee on Invalid Pensions.

Also, petition of the Yates County Chronicle, against tariff on linotype machines—to the Committee on Ways and Means.

By Mr. REYBURN: Petition of the harbor-master of Philadelphia, Pa., for an appropriation to deepen the channel of the Delaware River—to the Committee on Rivers and Harbors.

By Mr. RIXEY: Paper to accompany bill for relief of the trustees of the Methodist Episcopal Church of Rectortown, Va.—to the Committee on War Claims.

Also, petitions of Dumfries Council, No. 137; Bull Run Council, No. 104; Bell Haven Council, No. 132, and Bell Haven Council, No. 61, of Alexandria, Va., Junior Order United American Mechanics, and Martha Washington Council, No. 4, of Alexandria, Va., Daughters of America, favoring restriction of immigration (S. 4403)—to the Committee on Immigration and Naturalization.

By Mr. SCHNEEBELI: Petition of the Easton Argus, Easton, Pa., against tariff on linotype machines—to the Committee on Ways and Means.

By Mr. SHERMAN: Paper to accompany bill for relief of O. C. Ruriger—to the Committee on Pensions.

By Mr. SULZER: Paper to accompany bill for relief of Aurora G. Ellis—to the Committee on Invalid Pensions.

By Mr. WEBBER: Paper to accompany bill for relief of Asa F. Gardner—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of Hudson B. Shotwell—to the Committee on Invalid Pensions.

By Mr. WEEKS: Petition of the governors of the New England States and manufactures in said States, for two forest reserves in the East, to be known as the Appalachian and White Mountain Forest reserves—to the Committee on Agriculture.

SENATE.

THURSDAY, January 3, 1907.

Prayer by the Chaplain, Rev. EDWARD E. HALE.

The Secretary proceeded to read the Journal of the proceedings of Thursday, December 20, 1906, when, on request of Mr. CULBERSON, and by unanimous consent, the further reading was dispensed with.

The VICE-PRESIDENT. The Journal stands approved.

PURCHASES OF COAL.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of Agriculture, transmitting, in response to a resolution of June 29, 1906, a statement relative to the quantities and character of coal purchased during the last fiscal year for the use of the Agricultural Department, etc.; which, with the accompanying papers, was ordered to lie on the table, and be printed.

He also laid before the Senate a communication from the Secretary of War, transmitting, in response to a resolution of June 29, 1906, reports from the Quartermaster-General, the Chief of Engineers, and the Chief of Ordnance, United States Army, and the Chief of the Supply Division, War Department, together with accompanying statements, relative to the quantities and character of coal purchased during the last fiscal year for the use of the War Department, etc.; which, with the accompanying papers, was ordered to lie on the table, and be printed.

He also laid before the Senate a communication from the Secretary of the Treasury, transmitting, in response to a resolution of June 29, 1906, a statement showing the quantities and character of coal purchased by the Treasury Department for the several United States buildings under its control, throughout the country, and its bureaus and branches, during the last fiscal year, and also the quantities contracted for during the current fiscal year, etc.; which, with the accompanying paper, was ordered to lie on the table, and be printed.

FREEDMAN'S HOSPITAL BUILDING.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of the Interior, recommending an increase in the limit of cost of the new Freedman's Hospital building, and also that an additional appropriation be made for the installation of a system of heating and ventilating; which, with the accompanying papers, was referred to the Committee on Appropriations, and ordered to be printed.

THE PHILIPPINE TARIFF.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of War, transmitting a petition of the Agricultural Association of Panay and Negros with reference to the passage of a tariff bill in the interest of the Philippines; which, with the accompanying paper, was referred to the Committee on the Philippines, and ordered to be printed.

PAY OF ORDNANCE OFFICERS.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of War, transmitting a letter from the Chief of Ordnance recommending that section 1063 of the Revised Statutes be amended so that the ordnance officer in charge of any national armory shall receive no compensation other than his regular pay and allowances as an officer of the corps; which, with the accompanying paper, was referred to the Committee on Military Affairs, and ordered to be printed.

WILLIAM G. LABADIE.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of the Interior, transmitting a letter from the Commissioner of Indian Affairs submitting the draft of an item of proposed legislation for the purpose of permitting a patent in fee simple to be issued to William G. Labadie, Peoria allottee, for land allotted to him in the Indian Territory; which, with the accompanying papers, was referred to the Committee on Indian Affairs, and ordered to be printed.

ALLOTMENT OF INDIAN LANDS.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of the Interior, transmitting a letter from the Commissioner of Indian Affairs submitting an item to correct a discrimination in the act of June 5, 1906, relative to the allotment of lands to children of Indian parentage born since June 6, 1900, whose father or mother was a duly enrolled member of either of the Kiowa, Comanche, or Apache Indians, etc.; which, with the accompanying papers, was referred to the Committee on Indian Affairs, and ordered to be printed.

JOHN W. EARLY.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of the Interior, transmitting a letter from the Commissioner of Indian Affairs submitting the draft of an item of proposed legislation for the purpose of permitting a patent in fee simple to be issued to John W. Early, Ottawa allottee, for land allotted to him in the Indian Territory; which, with the accompanying papers, was referred to the Committee on Indian Affairs, and ordered to be printed.

LOSS OF LIGHTER MARIA.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of War, transmitting, in response to a resolution of December 17, 1906, certain information relative to the allowance made by the Quartermaster-General's Department on the claim of Brooks & Co., of Santiago, for the loss of the lighter *Maria* while in the service of the Government of the United States during its military occupation of Cuba; which, with the accompanying paper, was referred to the Committee on Military Affairs, and ordered to be printed.

PUBLIC SCHOOLS IN THE DISTRICT OF COLUMBIA.

The VICE-PRESIDENT laid before the Senate a communication from the Engineer Commissioner of the District of Columbia, transmitting certain information relative to the report authorized by Congress on a general plan for the consolidation of the public schools in the District of Columbia, etc.; which was referred to the Committee on the District of Columbia, and ordered to be printed.

D. M. CARMAN, MANILA, P. I.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of War, transmitting, in response to a resolution of December 17, 1906, a report of the Quartermaster-General of the Army relative to allowances made by the Quartermaster-General's Department upon the claims of D. M. Carman, of Manila, P. I., arising out of his contracts with the Quartermaster-General's Department for lighters, cascos, and other means of transportation in the Philippines; which, with the accompanying paper, was referred to the Committee on Military Affairs, and ordered to be printed.

FRENCH SPOILATION CLAIMS.

The VICE-PRESIDENT laid before the Senate communications from the assistant clerk of the Court of Claims, transmitting the conclusions of fact and of law filed under the act of January 20, 1885, in the French spoliation claims set out in the findings by the court, relating to the vessel brig *Bachelors*, David Churchill, master; relating to the vessel schooner *Eagle*, Jeremiah Goodhue, master; relating to the vessel schooner *Catherine*, James Cocks, master; relating to the vessel brig *Lydia*, Thomas McCray, master; relating to the vessel ship *Hiram*, Samuel A. Whitney, master; and relating to the vessel schooner *Molly*, John Alden, master.

The foregoing findings were, with the accompanying papers, referred to the Committee on Claims, and ordered to be printed.

The VICE-PRESIDENT laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting the order of the court dismissing the case for want of jurisdiction, filed under the act of January 20, 1885, in the French spoliation claims set out by the findings of the court relating to the vessel brig *Hope*, John Prince, master; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

He also laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting the conclusions of fact and law and opinion filed under the act of January 20, 1885, in the French spoliation claims, set out in the annexed findings by the court relating to the vessel schooner *Maria*, William Cole, master; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

He also laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting the conclusions of fact and of law and opinion filed under the act of January 20, 1885, in the French spoliation claims, set out in the annexed findings by the court relating to the vessel brig *Juno*, Henry Atkins, jr., master, and also of the opinion of the court overruling motion for new trial; which, with the accompanying paper, was referred to the Committee on Claims, and ordered to be printed.

FINDINGS BY THE COURT OF CLAIMS.

The VICE-PRESIDENT laid before the Senate communications from the assistant clerk of the Court of Claims, transmitting certified copies of the findings of fact filed by the court in the following causes:

In the cause of W. K. Spiller, administrator of C. C. Spiller, deceased, *v. The United States*;

In the cause of Richard Emmons and twenty-nine other claimants *v. The United States*;

In the cause of the trustees of the Presbyterian Church of McDowell, Highland County, Va., *v. The United States*;

In the cause of E. C. McNeel, administrator of Paul McNeel, deceased, *v. The United States*;

In the cause of Sarah C. Harsh *v. The United States*;

In the cause of Eugene Barrow, administrator of Mary J. Barrow, deceased, *v. The United States*;

In the cause of the trustees of the Methodist Episcopal Church South, of Charleston, W. Va., *v. The United States*;

In the cause of Mary Lee Dennis, executrix of Levi T. Oglesby, deceased, *v. The United States*;

In the cause of W. T. Smith, administrator of the estate of Maria A. Reinhardt, deceased, *v. The United States*;

In the cause of Lucy C. Lee, administratrix of Jane T. Lee, deceased, *v. The United States*;

In the cause of James M. Flint *v. The United States*;

In the cause of Nicholas Pratt *v. The United States*;

In the cause of Helen Bryant, granddaughter of William Black, deceased *v. The United States*;

In the cause of William L. Degn, Annette N. Degn McCoy, Minnie H. Degn Wilson, and Albert L. Degn, heirs of Laust E. Degn, deceased, *v. The United States*;

In the cause of Patrick G. Meath *v. The United States*; and

In the cause of Mrs. Mary K. Henry, Mrs. Alice A. Pope, Mrs. Jennie Alexander, and Nannie Newby, heirs of Oswell P. Newby, deceased, *v. The United States*.

The foregoing findings were, with the accompanying papers, referred to the Committee on Claims, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had passed (H. R. 21202) an act fixing time for homestead entrymen on lands embraced in the Wind River or Shoshone Indian Reservation to establish residence on same, in which it requested the concurrence of the Senate.

PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented a petition of the State Camp of New York, Patriotic Order Sons of America, praying for the enactment of legislation to restrict immigration; which was referred to the Committee on Immigration.

He also presented resolutions adopted by the Carriage Builders' National Association, praying for the adoption of certain changes in the existing tariff law; which were referred to the Committee on Finance.

He also presented a petition of the General Assembly of the Presbyterian Church, praying for the adoption of an amendment to the Constitution to prohibit polygamy; which was referred to the Committee on the Judiciary.

He also presented a memorial of the General Assembly of the Presbyterian Church, remonstrating against the appropriation of public money for sectarian purposes; which was referred to the Committee on Indian Affairs.

He also presented a memorial of the Board of Trade of Washington, D. C., remonstrating against the enactment of legislation authorizing the changing of the names of avenues in that city named in honor of the thirteen original States of the Union; which was referred to the Committee on the District of Columbia.

He also presented a memorial of the St. Louis Immigration Protective Tariff League, of Missouri, remonstrating against the passage of the so-called Dillingham bill providing an educational test for immigrants; which was referred to the Committee on Immigration.

He also presented the petition of James B. Greer and sundry other citizens of Humphrey, Ark., praying for the enactment of legislation to provide a home in Africa for ex-slaves and their offspring; which was referred to the Committee on Foreign Relations.

Mr. GALLINGER presented a petition of sundry citizens of New Hampshire, praying for the enactment of legislation providing for carrying free of postage in the mails reading matter for the use of the blind; which was referred to the Committee on Post-Offices and Post-Roads.

He also presented a petition of National Camp, Patriotic Order of Americans, of Phillipsburg, N. J., and a petition of Pennsylvania State Camp, Patriotic Order of Sons of America, of Philadelphia, Pa., praying for the enactment of legislation to restrict immigration; which were referred to the Committee on Immigration.

Mr. BERRY presented a petition of the Board of Trade of Newport, Ark., praying that an appropriation be made for the improvement of White River in that State; which was referred to the Committee on Commerce.

He also presented petitions of sundry citizens of Clarksville, Argenta, Waldron, Mena, Booneville, and Conway, all in the State of Arkansas, praying that an appropriation be made for the extermination of the cotton-boll weevil; which were referred to the Committee on Agriculture and Forestry.

Mr. MALLORY presented a memorial of sundry property owners and residents on New Jersey avenue from Massachusetts avenue to Florida avenue in Washington, D. C., remonstrating against the enactment of legislation providing for the construction of a double-track street car line on that avenue; which was referred to the Committee on the District of Columbia.

Mr. KEAN presented resolutions adopted at a mass meeting of colored citizens of Trenton, N. J., relative to the discharge of a battalion of the Twenty-fifth United States Infantry; which were referred to the Committee on Military Affairs.

He also presented a petition of the Board of Trade of Elizabeth, N. J., praying for the enactment of legislation providing

for the readjustment of the salaries and the system of promotion of postal clerks; which was referred to the Committee on Post-Offices and Post-Roads.

Mr. CULLOM presented a petition of sundry citizens of Rochester, N. Y., praying that the Senate Committee on Foreign Relations refrain from any act to interfere in Kongo affairs; which was referred to the Committee on Foreign Relations.

Mr. DEPEW presented a petition of Pomona Grange, No. 33, Patrons of Husbandry, of Akron, N. Y., praying for the passage of the so-called parcels-post bill; which was referred to the Committee on Post-Offices and Post-Roads.

He also presented petitions of the New York City Indian Association, the German Baptist Ministers' Conference of New York, and of the Men's Association of the Presbyterian Church of New York City, N. Y., praying for an investigation into the existing conditions in the Kongo Free State; which were referred to the Committee on Foreign Relations.

Mr. SCOTT presented the petition of Charles T. Beale of West Virginia, and the petition of Harvey J. Simmons, of West Virginia, praying for the enactment of legislation for the relief of Joseph V. Cunningham and other officers of the Philippine Volunteers; which were referred to the Committee on Claims.

Mr. NELSON presented a petition of the Public Affairs Committee of Duluth, Minn., praying that an appropriation be made for the improvement of the Mississippi River near Aitkin, in that State; which was referred to the Committee on Commerce.

He also presented a petition of the Commercial Club of Lake City, Minn., praying that an appropriation be made for the improvement of the Upper Mississippi River in that State; which was referred to the Committee on Commerce.

He also presented a petition of the Minnesota Federation of Women's Clubs, of Duluth, Minn., praying for the enactment of legislation to remove the duty on works of art; which was referred to the Committee on Finance.

Mr. WETMORE presented a memorial of the Rhode Island State Horticultural Society remonstrating against further appropriation for the free distribution of seeds and plants; which was referred to the Committee on Agriculture and Forestry.

Mr. ANKENY presented memorials of sundry citizens of Catlin, Ferndale, and Whitman County, all in the State of Washington, remonstrating against the enactment of legislation requiring certain places of business in the District of Columbia to be closed on Sunday; which were referred to the Committee on the District of Columbia.

Mr. PILES presented a petition of H. R. Loomis Post No. 80, Department of Washington, Grand Army of the Republic, of the State of Washington, praying for the passage of the so-called "service pension bill"; which was ordered to lie on the table.

He also presented memorials of sundry citizens of Seattle, Stanwood, Cedarhome, Kent, Bellevue, Woodland, Chinook, and Clark County, all in the State of Washington, remonstrating against the enactment of legislation requiring certain places of business in the District of Columbia to be closed on Sunday; which were referred to the Committee on the District of Columbia.

Mr. LONG presented a petition of Coopers' International Union, American Federation of Labor, of Kansas City, Kans., praying that an appropriation be made for an investigation into the industrial and social conditions of women and child workers in the United States; which was referred to the Committee on Education and Labor.

He also presented memorials of sundry citizens of Colony, Independence, Ottawa, and Montgomery counties, all in the State of Kansas, remonstrating against the enactment of legislation requiring certain places of business in the District of Columbia to be closed on Sunday; which were referred to the Committee on the District of Columbia.

He also presented a memorial of the Commercial Club of Salina, Kans., remonstrating against the passage of the so-called "parcels-post bill," and praying for a reclassification of second-class mail matter; which was referred to the Committee on Post-Offices and Post-Roads.

He also presented the petition of William A. Greene, of the State of Kansas, praying for the enactment of legislation for the relief of Joseph V. Cunningham and other officers of the Philippine Volunteers; which was referred to the Committee on Claims.

He also presented sundry papers to accompany the bill (S. 6875) granting an increase of pension to Lemuel T. Williams; which were referred to the Committee on Pensions.

Mr. CLAPP (for Mr. GAMBLE) presented memorials of sundry citizens of Custer, Clark County, and Lyman County, all in the State of South Dakota, remonstrating against the enactment of legislation requiring certain places of business to be

closed on Sunday; which were referred to the Committee on the District of Columbia.

Mr. WARREN presented petitions of the State Camps, Patriotic Sons of America, of New York, New Jersey, and Pennsylvania, praying for the enactment of legislation to restrict immigration; which were referred to the Committee on Immigration.

Mr. BURKETT presented resolutions adopted by the Labor Council of San Francisco, Cal., relative to the recommendations of the President concerning the Japanese situation in that city; which were referred to the Committee on Foreign Relations.

He also presented the petition of R. C. Hazlett, of Lincoln, Nebr., praying for an investigation into the existing conditions in the Kongo Free State; which was referred to the Committee on Foreign Relations.

He also presented a petition of the South Omaha Live Stock Exchange, of South Omaha, Nebr., praying for the enactment of legislation granting authority to the Interstate Commerce Commission to regulate and enforce laws to correct the abuses known as "car shortages;" which was referred to the Committee on Interstate Commerce.

He also presented a memorial of Local Division No. 227, Order of Railway Conductors, of Lincoln, Nebr., and a memorial of Local Division No. 35, Order of Railway Conductors, of North Platte, Nebr., remonstrating against the passage of the so-called "La Follette bill," to limit the hours of continuous service of railway employees; which were referred to the Committee on Interstate Commerce.

He also presented sundry affidavits to accompany the bill (S. 5601) granting an increase of pension to Mathew B. Reid; which were referred to the Committee on Pensions.

He also presented sundry affidavits to accompany the bill (S. 3563) granting an increase of pension to Orin D. Sisco; which were referred to the Committee on Pensions.

He also presented sundry affidavits to accompany the bill (S. 7293) granting an increase of pension to John White; which were referred to the Committee on Pensions.

He also presented the petition of John P. Grinstead, of Salem, Nebr., praying for the enactment of legislation for the relief of Joseph V. Cunningham and other officers of the Philippine Volunteers; which was referred to the Committee on Claims.

Mr. ELKINS presented memorials of sundry citizens of Berea, Parkersburg, Morgantown, Spencer, Clarksburg, and Walker, all in the State of West Virginia, remonstrating against the enactment of legislation requiring certain places of business in the District of Columbia to be closed on Sunday; which were referred to the Committee on the District of Columbia.

Mr. HANSBROUGH presented a memorial of sundry citizens of Williams County, N. Dak., remonstrating against the enactment of legislation requiring certain places of business in the District of Columbia to be closed on Sunday; which was referred to the Committee on the District of Columbia.

Mr. SPOONER presented a memorial of sundry citizens of Bethel, Wis., remonstrating against the enactment of legislation requiring certain places in the District of Columbia to be closed on Sunday; which was referred to the Committee on the District of Columbia.

THE HERDIC COMPANY.

Mr. CARTER. I present a paper by Margaret Sullivan Burke, of Washington, D. C., relative to the Metropolitan Coach Company in the District of Columbia, commonly known as the "Herdic Company." I move that it be printed as a document and referred to the Committee on the District of Columbia.

The motion was agreed to.

LARVAN GORDON.

Mr. BERRY. I report back favorably from the Committee on Public Lands, with an amendment in the nature of a substitute, the bill (S. 5869) for the relief of Larvan Gordon, and I submit a report thereon. There are only a few lines of the bill, which is for the relief of a party who is very worthy, and it is especially important that it should be passed. I ask unanimous consent for its present consideration.

The VICE-PRESIDENT. The bill will be read for the information of the Senate.

The Secretary read the amendment, which was to strike out all after the enacting clause and insert:

That the Secretary of the Interior be, and is hereby, authorized and directed to confirm homestead entry No. 24813, made at the Camden, Ark., land office, by Larvan Gordon, of Dial, Howard County, Ark., and cause a patent to the land embraced within said entry to be issued to said Larvan Gordon, provided there is no valid adverse claim for such land.

The VICE-PRESIDENT. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered as in Committee of the Whole.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. BERRY. The committee also reports to strike out the preamble.

The VICE-PRESIDENT. The preamble will be stricken out, in the absence of objection.

ENTRIES ON CROW INDIAN RESERVATION LANDS.

Mr. CARTER. I am directed by the Committee on Public Lands, to whom was referred the bill (H. R. 21678) to provide for the extension of time within which homestead entrymen may establish their residence upon certain lands which were heretofore a part of the Crow Indian Reservation, within the counties of Yellowstone and Rosebud, in the State of Montana, to report it favorably without amendment, and I submit a report thereon. I ask unanimous consent for the consideration of the bill.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

BILLS INTRODUCED.

Mr. WHYTE introduced a bill (S. 7417) for the relief of Mary A. Schufeldt; which was read twice by its title, and referred to the Committee on Claims.

Mr. LODGE introduced a bill (S. 7418) to improve the consular service; which was read twice by its title, and referred to the Committee on Foreign Relations.

Mr. CULLOM introduced a bill (S. 7419) to remove the charge of desertion from the military record of Hiram Henderson; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Military Affairs.

He also introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 7420) granting a pension to Eleanor N. Sherman; and

A bill (S. 7421) granting an increase of pension to Joseph Klein.

Mr. GALLINGER introduced the following bills; which were severally read twice by their titles, and referred to the Committee on the District of Columbia:

A bill (S. 7422) to amend the act approved March 1, 1905, entitled "An act to amend section 4 of an act entitled 'An act relating to the Metropolitan police of the District of Columbia,' approved February 28, 1901" (with an accompanying paper);

A bill (S. 7423) prohibiting the purchase or procurement, sale, gift, or disposition of intoxicating liquors to minors by unlicensed persons (with accompanying papers);

A bill (S. 7424) to extend Fourth street SE.;

A bill (S. 7425) authorizing the extension of Oak street NW.; and

A bill (S. 7426) for the opening of Warren and Forty-sixth streets NW., District of Columbia.

Mr. GALLINGER introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 7427) granting an increase of pension to George L. Danforth (with accompanying papers);

A bill (S. 7428) granting an increase of pension to Helen C. Lettenmayer;

A bill (S. 7429) granting a pension to Caroline A. Gilman (with an accompanying paper); and

A bill (S. 7430) granting a pension to Mary F. Johnson (with accompanying papers).

Mr. GALLINGER introduced a bill (S. 7431) to correct the military record of Otis C. Mooney; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Military Affairs.

Mr. ELKINS introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 7432) granting an increase of pension to G. W. Rutherford;

A bill (S. 7433) granting an increase of pension to Charles B. Gilbert;

A bill (S. 7434) granting an increase of pension to George Blake (with an accompanying paper);

A bill (S. 7435) granting an increase of pension to Spencer Phillips; and

A bill (S. 7436) granting a pension to Lucinda Phares.

Mr. ELKINS introduced a bill (S. 7437) to provide for the

appointment of an additional district judge in and for the southern judicial district of the State of West Virginia; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. BLACKBURN introduced the following bills; which were severally read twice by their titles, and, with the accompanying papers, referred to the Committee on Claims:

A bill (S. 7438) for the relief of the secretary and treasurer of Lexington Lodge, No. 1, F. and A. Masons, of Lexington Ky.;

A bill (S. 7439) for the relief of the trustees of the Methodist Episcopal Church South, of Brandenburg, Ky.;

A bill (S. 7440) for the relief of the secretary and treasurer of the Chamberlain Philosophical and Literary Society, of Danville, Ky.;

A bill (S. 7441) for the relief of the trustees of the Baptist Church of Shepherdsville, Ky.;

A bill (S. 7442) for the relief of the trustees of the Glasgow graded common schools, of Glasgow, Ky.;

A bill (S. 7443) for the relief of the rector of St. Augustine's Roman Catholic Church, of Lebanon, Ky.; and

A bill (S. 7444) for the relief of the trustees of the First Presbyterian Church of Danville, Ky.

Mr. ANKENY introduced a bill (S. 7445) granting an increase of pension to Charles J. Freese; which was read twice by its title, and referred to the Committee on Pensions.

Mr. FORAKER introduced a bill (S. 7446) granting a pension to Patrick Kinney; which was read twice by its title, and referred to the Committee on Pensions.

Mr. HEYBURN introduced a bill (S. 7447) granting an increase of pension to Maria Wells; which was read twice by its title, and referred to the Committee on Pensions.

Mr. ALGER introduced a bill (S. 7448) granting an increase of pension to Emma L. Harrower; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 7449) granting an increase of pension to Anna M. Loomis; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 7450) to empower the Secretary of War to allow burial of wives of deceased enlisted men in national cemeteries in the same graves as deceased soldiers; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. BURKETT introduced a bill (S. 7451) to prevent the nullification of State antigambling laws by interstate race gambling by telegraph; which was read twice by its title, and referred to the Committee on the Judiciary.

He also introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 7452) granting an increase of pension to Thomas Harrop;

A bill (S. 7453) granting an increase of pension to Samuel Steel; and

A bill (S. 7454) granting an increase of pension to John E. Meglerme (with an accompanying paper).

Mr. WETMORE introduced the following bills; which were severally read twice by their titles, and, with accompanying papers, referred to the Committee on Pensions:

A bill (S. 7455) granting an increase of pension to Annie C. Anthony; and

A bill (S. 7456) granting an increase of pension to Caroline M. Packard.

Mr. KNOX introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 7457) applying the provisions of the act of June 27, 1890, to the men of the Mississippi River Ram Fleet and Marine Brigade, their widows and minor children (with an accompanying paper);

A bill (S. 7458) granting an increase of pension to J. L. Francis;

A bill (S. 7459) granting a pension to Ella J. Crosse; and

A bill (S. 7460) granting an increase of pension to Marshall H. Lewis.

Mr. HALE introduced a bill (S. 7461) to provide for the harbor accommodation, movements, and anchorage of foreign vessels of war visiting Hampton Roads during the Jamestown Exposition; which was read twice by its title, and, with the accompanying letter from the Secretary of the Navy, which was ordered to be printed, referred to the Committee on Naval Affairs.

Mr. WARREN introduced a bill (S. 7462) granting an increase of pension to Amiziah Reed; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. BERRY introduced a bill (S. 7463) granting a pension to George C. Rimes; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

He also introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Claims:

A bill (S. 7464) for the relief of Mrs. Zerelda P. Allen, and estates of William B. Poole and Mrs. Mollie Amanda Phillips (with an accompanying paper);

A bill (S. 7465) for the relief of the heirs of Joel S. Calvert; and

A bill (S. 7466) for the relief of the heirs of H. D. Flowers, deceased.

Mr. FULTON introduced the following bills; which were severally read twice by their titles, and, with the accompanying papers, referred to the Committee on Claims:

A bill (S. 7467) to provide for the division of a penalty recovered under the alien contract-labor law; and

A bill (S. 7468) for the relief of I. B. Hammond.

Mr. FULTON introduced a bill (S. 7469) authorizing the restoration of the name of James R. Chapman, late lieutenant, Twenty-second United States Infantry, to the rolls of the Army, and providing that he be placed on the list of retired officers; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Military Affairs.

He also introduced the following bills; which were severally read twice by their titles, and, with the accompanying papers, referred to the Committee on Pensions:

A bill (S. 7470) granting an increase of pension to William F. Burnett;

A bill (S. 7471) granting an increase of pension to Rudolph Crandall;

A bill (S. 7472) granting a pension to James A. Baker;

A bill (S. 7473) granting an increase of pension to John M. Gilliland; and

A bill (S. 7474) granting an increase of pension to William Armstrong.

Mr. LONG introduced the following bills; which were severally read twice by their titles, and, with the accompanying papers, referred to the Committee on Pensions:

A bill (S. 7475) granting an increase of pension to William D. Hudson; and

A bill (S. 7476) granting an increase of pension to Oliver S. Boggs.

Mr. McCUMBER introduced the following bills; which were severally read twice by their titles, and, with the accompanying papers, referred to the Committee on Pensions:

A bill (S. 7477) granting an increase of pension to Patrick Cooney;

A bill (S. 7478) granting an increase of pension to William H. Brown;

A bill (S. 7479) granting an increase of pension to George L. Corey;

A bill (S. 7480) granting an increase of pension to John Bowen;

A bill (S. 7481) granting an increase of pension to A. W. Edwards;

A bill (S. 7482) granting an increase of pension to Wilford Herrick;

A bill (S. 7483) granting an increase of pension to Marinda D. Beery;

A bill (S. 7484) granting an increase of pension to Samuel E. Coover;

A bill (S. 7485) granting an increase of pension to Lester M. P. Griswold;

A bill (S. 7486) granting an increase of pension to Byron A. Williams;

A bill (S. 7487) granting an increase of pension to Andrew J. Welker;

A bill (S. 7488) granting a pension to William W. Putnam;

A bill (S. 7489) granting an increase of pension to Albert C. Wagher; and

A bill (S. 7490) granting an increase of pension to Henry Hanson, alias Halden Hanson.

Mr. CRANE introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 7491) granting an increase of pension to Anna V. Blaney;

A bill (S. 7492) granting an increase of pension to Benjamin Clow; and

A bill (S. 7493) granting an increase of pension to George Arthur Tappan.

Mr. HANSBROUGH introduced the following bills; which

were severally read twice by their titles, and referred to the Committee on Public Lands:

A bill (S. 7494) to provide for the disposal of timber on public lands chiefly valuable for timber, and for other purposes;

A bill (S. 7495) to define the status of certain patents and pending entries, selections, and filings on lands formerly within the Fort Berthold Indian Reservation in North Dakota;

A bill (S. 7496) relating to commutations of homestead entries, and to confirm such entries when commutation proofs were received by local land officers prematurely; and

A bill (S. 7497) providing for the commutation of second homestead entries in certain cases.

Mr. NELSON introduced a bill (S. 7498) prohibiting the sale or disposal of beds or deposits of coal, lignite, asphalt, petroleum, and natural gas, and the lands in which the same are situate, and providing for the leasing of such deposits and lands; which was read twice by its title, and referred to the Committee on Public Lands.

He also introduced a bill (S. 7499) to amend section 8 of an act entitled "An act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1897, and for other purposes," approved May 28, 1896, relative to the expense allowance of United States attorneys and assistants while absent from their official residences on official business; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. PILES introduced a bill (S. 7500) providing for two additional circuit judges in the ninth judicial circuit; which was read twice by its title, and referred to the Committee on the Judiciary.

He also introduced a bill (S. 7501) extending to the support of Bellingham, in the State of Washington, the privileges of the seventh section of the act approved June 10, 1880, governing the immediate transportation of dutiable merchandise without appraisement; which was read twice by its title, and referred to the Committee on Commerce.

He also introduced a bill (S. 7502) providing for the appointment of an appraiser of merchandise for the customs collection district of Puget Sound, State of Washington; which was read twice by its title, and referred to the Committee on Finance.

He also introduced the following bills; which were severally read twice by their titles, and, with the accompanying papers, referred to the Committee on Pensions:

A bill (S. 7503) granting an increase of pension to George W. Baker;

A bill (S. 7504) granting an increase of pension to David Decker; and

A bill (S. 7505) granting an increase of pension to Michael Bogue.

Mr. MALLORY introduced a bill (S. 7506) providing for completing the construction of the road from Barrancas military post, by way of the national cemetery and the navy-yard, on the naval reservation near Pensacola, Fla., to the north shore of Bayou Grande, and for repairing the bridge connecting said road with said north shore of Bayou Grande; which was read twice by its title, and referred to the Committee on Military Affairs.

He also introduced a bill (S. 7507) granting an increase of pension to Clara Caro; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

Mr. CLAPP introduced a bill (S. 7508) granting a pension to Wilmot Stevens; which was read twice by its title, and referred to the Committee on Pensions.

Mr. BURROWS introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 7509) granting an increase of pension to William T. Bennett;

A bill (S. 7510) granting an increase of pension to Millard F. Burrows; and

A bill (S. 7511) granting an increase of pension to James Fisher (with accompanying papers).

Mr. CARTER introduced a bill (S. 7512) to provide for an additional land district in the State of Montana, to be known as the Glasgow land district; which was read twice by its title, and referred to the Committee on Public Lands.

He also introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 7513) granting an increase of pension to Alexander M. Cowgill; and

A bill (S. 7514) granting an increase of pension to Thomas Cornelius.

Mr. CARTER introduced a bill (S. 7515) to authorize the Missouri River Improvement Company, a Montana corporation, to construct a dam or dams across the Missouri River; which was read twice by its title, and referred to the Committee on Commerce.

Mr. MARTIN introduced a bill (S. 7516) granting an increase of pension to Margaret T. Everly; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. SPOONER introduced a bill (S. 7517) granting an increase of pension to Sarah Searle; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 7518) granting an increase of pension to Charles W. Cary; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Pensions.

EMPLOYMENT OF CHILD LABOR IN THE DISTRICT OF COLUMBIA.

Mr. BEVERIDGE. I submit an amendment intended to be proposed by me to the bill (H. R. 17838) to regulate the employment of child labor in the District of Columbia, which I ask may lie on the table, and be printed.

I wish to give notice that on Monday, January 14, I shall submit to the Senate some remarks upon this amendment.

The VICE-PRESIDENT. The amendment will be printed, and lie on the table.

Mr. PILES submitted an amendment intended to be proposed by him to the bill (H. R. 17838) to regulate the employment of child labor in the District of Columbia; which was ordered to lie on the table, and be printed.

Mr. GALLINGER submitted an amendment intended to be proposed by him to the bill (H. R. 17838) to regulate the employment of child labor in the District of Columbia; which was ordered to lie on the table, and be printed.

He also submitted an amendment intended to be proposed by him to the bill (H. R. 17838) to regulate the employment of child labor in the District of Columbia; which was ordered to lie on the table and be printed, and to be printed in the Record, as follows:

Substitute for section 1 the following:

That no child under 14 years of age shall be employed, permitted, or suffered to work in the District of Columbia in any factory, workshop, mercantile establishment, store, business office, telegraph office, restaurant, saloon, hotel, apartment house, pool room, theater, or bowling alley, nor during school hours in the distribution or transmission of merchandise or messages, selling newspapers, or doing other light outdoor work, nor shall such child be employed before the hour of 6 o'clock in the morning or after the hour of 7 o'clock in the evening: *Provided*, That the provisions of this act shall not apply to children between the ages of 12 and 16 years employed in the Senate and House of Representatives nor to children between such ages who are regularly engaged in learning a trade.

ANDREW H. RUSSELL AND WILLIAM R. LIVERMORE.

Mr. WARREN submitted an amendment intended to be proposed by him to the bill (H. R. 2073) for the relief of Andrew H. Russell and William R. Livermore; which was ordered to be printed, and, with the accompanying papers, referred to the Committee on Claims.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. OVERMAN submitted an amendment proposing to appropriate \$50,000 for compensation and actual traveling expenses of special agents to investigate trade conditions abroad, etc., intended to be proposed by him to the legislative, executive, and judicial appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. MONEY submitted an amendment authorizing the Court of Claims as a body to employ, for work necessary to be performed, an auditor or clerk for any of its judges, etc., intended to be proposed by him to the legislative, executive, and judicial appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. CLAPP submitted an amendment directing the Court of Claims to consider and render final judgment in the matter of the claims against the Mississippi Choctaws of James E. Arnold, his associates and assigns, intended to be proposed by him to the Indian appropriation bill; which was referred to the Committee on Indian Affairs, and ordered to be printed.

Mr. McENERY submitted an amendment proposing to increase the salary of the chief clerk and cashier, office of Assistant Treasurer at New Orleans, from \$2,250 to \$2,500 per annum, intended to be proposed by him to the legislative, executive, and judicial appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

ALCOHOL IN THE ARTS.

On motion of Mr. HANSBROUGH, it was

Ordered, That 500 copies of S. 7326, to amend an act entitled "An act for the withdrawal from bond tax free of domestic alcohol when

rendered unfit for beverage or liquid medicinal uses by mixture with suitable denaturing materials," approved June 7, 1906, be printed for the use of the Senate.

HOUSE BILL REFERRED.

H. R. 21202. An act fixing time for homestead entrymen on lands embraced in the Wind River or Shoshone Indian Reservation to establish residence on same, was read twice by its title, and referred to the Committee on Public Lands.

MEMORIAL ADDRESSES ON THE LATE SENATOR GORMAN.

Mr. RAYNER. Mr. President, I desire to give notice that on Saturday, January 26, 1907, immediately after the routine morning business, I shall ask the Senate to consider resolutions in commemoration of the life, character, and public services of my late colleague, Hon. Arthur Pue Gorman.

TREATY WITH JAPAN.

Mr. GEARIN. Mr. President, I give notice that on Monday next after the conclusion of the routine morning business I shall call up Senate resolution 197, advising that negotiations be entered into with the Japanese Government with a view to secure a modification of the existing treaty with Japan, etc., for the purpose of making some remarks upon it.

EXTENSION OF FEDERAL POWERS.

Mr. OVERMAN. Mr. President, I desire to give notice that on Tuesday next, after the close of the routine morning business, I shall call up Senate resolution No. 200, defining the rights delegated to the Government and those reserved to the States, etc., for the purpose of making some remarks thereon.

DISMISSAL OF THREE COMPANIES OF TWENTY-FIFTH INFANTRY.

Mr. McCUMBER. Mr. President, I gave notice on the 18th of last month that I would call up the pension bill for consideration this morning. I understand that the senior Senator from Texas [Mr. CULBERSON] is prepared to speak upon the resolution relating to the Brownsville affair and is very anxious to go on this morning. I wish, therefore, to change that notice so that I may call up the bill after the routine morning business to-morrow, and I hope that I shall be able to have it considered at that time—that is, considered until 2 o'clock in the afternoon.

Mr. FORAKER. I do not wish to interfere with the consideration of the bill the Senator from North Dakota has given notice that he desires to bring up for consideration, but I wish to call attention to the fact that Senate resolution 208, which I offered on the last day before we adjourned for the vacation, is now before the Senate, as I understand it. The resolution we then had under consideration was No. 181. I asked and obtained unanimous consent to modify the resolution and offered it in a different form as another resolution. It is now numbered 208, and it went over, and to-day will come up, I understand. It is not the old resolution, but a new resolution modified so as to make it mandatory instead of giving an option to the Committee on Military Affairs to take testimony. I ask that that resolution may be laid before the Senate, and then I will come to an understanding with the Senator from North Dakota.

The VICE-PRESIDENT. The Senator from Ohio asks that the resolution indicated by him be laid before the Senate. Is there objection? The Chair hears none. The Secretary will read the resolution.

The Secretary read the modified resolution submitted by Mr. FORAKER December 20, 1906, as follows:

Resolved, That the Committee on Military Affairs be, and hereby is, authorized to take such further testimony as may be necessary to establish the facts connected with the discharge of members of Companies B, C, and D, Twenty-fifth United States Infantry, and that it be, and hereby is, authorized to send for persons and papers and administer oaths, and report thereon, by bill or otherwise.

Mr. FORAKER. Now, Mr. President, what I inquire about is the parliamentary status of the resolution. I understand that it is now before the Senate for consideration, and of right. I do not wish to crowd out the Senator from North Dakota—

The VICE-PRESIDENT. The Chair understands that the resolution is merely a modification of the resolution previously introduced, and that its status would be governed by the status of the resolution of which it is a modification.

Mr. FORAKER. It does not signify on the face of it that it is a modification. I stated when Senate resolution 181 was under consideration that I would, if given unanimous consent, modify my resolution. When I undertook to modify it I found it so difficult to do it that I had to change it throughout almost. I simply drafted it in this form and offered it, and I see that the clerks have numbered it as a separate resolution. I understand the Senator from Texas [Mr. CULBERSON] desires to speak on the resolution this morning, and I merely want, if it is in order, to have it before the Senate so that he may have an opportunity to speak on it.

The VICE-PRESIDENT. The Chair put the Senator's re-

quest for unanimous consent that the resolution should be placed before the Senate this morning, and the Chair heard no objection to that request. The resolution was read, and the Chair understands that it is now before the Senate.

Mr. FORAKER. I am willing to yield at any time to the Senator from North Dakota after the Senator from Texas has spoken, so that he may bring up the bill he speaks of.

Mr. GALLINGER. Mr. President, I desire simply to ask the Senator from North Dakota a question concerning the bill he proposes to call up to-morrow, I understood him to say. I wish to ask the Senator if it is his intention to press that bill to a vote. It is a very important measure, and I would want to look into the question pretty carefully before I should be prepared to cast a vote on it. I should like to know the purpose the Senator has in view. If it is only to discuss the bill and then have it laid aside, of course there can be no objection.

Mr. McCUMBER. In answer to the Senator from New Hampshire I would say that my intention is simply to call up the bill for discussion during the morning hour, with a view, however, to having an agreement by which it may be made the unfinished business very soon. It has already been on the Calendar since April 2 of last year, so Senators have had considerable time to consider it.

Now, Mr. President, while I am on my feet I desire to ask a question about the status of this resolution. I do not understand that the resolution has any special right of way for any particular day in the future by reason of anything that has been done in reference to it to-day. It would have to be called up, I understand, to-morrow, the same as any other bill or resolution, and have the consent of the Senate to consider it. I have already yielded to-day to the Senator from Texas for the purpose of enabling him to discuss the resolution. I simply want to know whether that in any way interferes with the notice which I just now gave that I would call up for consideration briefly the pension bill to-morrow after the routine morning business?

The VICE-PRESIDENT. The Chair understands that under the rule the resolution has no rights beyond the morning hour. It would have to be called up the same as any other subject.

Mr. McCUMBER. That is as I understand it.

Mr. MONEY. I desire to ask a question of the Senator from North Dakota. To what pension bill is it that he alludes?

Mr. McCUMBER. It is a general service pension bill.

Mr. MONEY. A general service pension bill?

Mr. McCUMBER. Yes; Order of Business 2293. The number of the bill is Senate 976.

Mr. CULBERSON. Mr. President, when this matter was first presented to the Senate it occurred to me, for reasons which need not be stated, to remain silent, although it concerned some of the people of Texas. Since then, and in my absence from the city, great injustice has been done the people of Brownsville, which calls for that refutation which, I think, the facts easily and conclusively establish.

Three companies of negro troops of the Twenty-fifth Infantry were stationed last July at Fort Brown, which is within the corporate limits of the city of Brownsville. Some of these troops were ignorant, disrespectful, and insolent. At other stations men of the same companies had been engaged in disturbances and riots which culminated in murder. At Brownsville, previous to August 13, the conduct of some of these soldiers was offensive to the citizens, especially to women, and on the 12th day of August a criminal assault was made upon one of the most reputable women of the city by a brutal negro soldier. Complaint of this was made the next day to the commanding officer, though no arrest has yet been made, and in view of the just indignation of the people the mayor of the city requested this officer not to permit the soldiers on the streets of the city that night. Such an order was entered, which provoked resentment on the part of the soldiers. About midnight that night, August 13, some fifteen or twenty of the soldiers made an assault upon the city with arms; fired recklessly and wantonly into many residences, business houses, and hotels; terrified women and children, who miraculously escaped injury or death; seriously wounded the lieutenant of police, and murdered an inoffensive citizen. Notwithstanding this cowardly and inhuman assault, the people of Brownsville, although excited and indignant, kept the peace, Mr. President, refrained from acts of violence, and contented themselves with appealing to the State and Federal authorities for protection.

What return, sir, is made to them in some quarters for this act of self-restraint and obedience to law? They are practically charged with rioting among themselves, with firing without provocation upon their own people, with putting their women and children in jeopardy of life, with wounding their peace officer and murdering their fellow-citizen. Upon considerations

and motives which I can not pretend to fathom, no people were ever more unjustly and cruelly assailed.

Nor, Mr. President, have accusations stopped with the people of Brownsville. Captain McDonald, of the Texas Rangers, and Major Blocksom, of the United States Army, in their efforts under orders to detect these midnight assassins, have been sharply and severely arraigned. I know McDonald well. Plain and rough of manner and of speech, he is as honest and as truthful as he is fearless and brave. He is a worthy successor, Mr. President, in courage and devotion to duty of Hays and Ford and McCullough and McNally, who made the Texas Rangers famous on the frontier. My acquaintance with Major Blocksom has not been so long, and he needs no defense, but I am glad to say here in my place that he is a gentleman by birth and instinct; that he is an accomplished and conscientious officer, and that his military record is without blemish or stain.

When the record in this case was presented to the President, all the soldiers denying participation in or knowledge of the crimes committed at Brownsville, he discharged the entire battalion without honor before the expiration of the term of enlistment, through the Secretary of War. This action of the President is challenged as unauthorized by law, and this raises the important legal question involved in this controversy.

It has been intimated that the discharge was ordered because the troops were negroes. But in a consideration of the law of the case it is not essential to inquire whether the discharge was ordered because the troops were negroes any more than to inquire whether the controversy arose here because the troops were negroes.

It is well to say at the outset that while, in my judgment, the President was authorized to discharge the soldiers without honor, to be followed by the disqualifications incident to such discharge provided by law and the Army Regulations, so much of the order as purports to debar them from civil employment under the Federal Government forever is inoperative as beyond his authority. Under the civil-service rules they appear to be ineligible to civil appointments for one year. The order doubtless was not intended to apply to civil employment through elective offices, and obviously could not affect such cases. Moreover, that portion of the order which seeks to debar them from reenlisting in the Army is without legal force in itself. Their reenlistment, as it may depend upon this question, is governed and controlled by the act of Congress of 1894, which provides that no soldier shall be again enlisted in the Army whose previous service has not been honest and faithful.

The general contention that the discharge of the troops in this case is without warrant of law is based upon a confusion of the discharge and the punishment of enlisted men in the Army and upon a misconception of the powers of the President and a court-martial in respect to such matters. The Constitution declares that the President shall be Commander in Chief of the Army and Navy of the United States and of the militia of the several States when called into the actual service of the United States. It may be that this provision vests in the President ample powers respecting discipline which would enable him to exercise fully the supreme command, but in my view of the question it is unnecessary to consider this phase of the subject, because undoubtedly such powers as are necessary in this case are expressly devolved upon him by the Articles of War.

The Constitution also declares that the Congress shall have power to "make rules for the government and regulation of the land and naval forces." Pursuant to this authority Congress has made such rules for the land forces, and they are incorporated in section 1342 of the Revised Statutes of the United States and are known as the Articles of War. From time to time, under the constitutional authority of Commander in Chief, regulations for the Army, not inconsistent with the Articles of War, have been promulgated by the Executive. By an Executive order, September 15, 1904, the latest regulations for the Army were promulgated by the President. Whether there can be any conflict between the power of the President to command the Army and the power of the Congress to make rules for its government is of no consequence in this discussion, for there is, on the subject of discharging the enlisted men in this instance, no conflict in the rules made by the Congress and those made by the President. The Articles of War enacted by the Congress clearly distinguish between the discharge of enlisted men prior to the expiration of the term of service in the interest of military discipline and for the good of the service and the punishment of such men for criminal offenses which are named in the Articles of War. Men may be discharged under the Articles of War, as provided in the fourth article, by the President, the Secretary of War, the commanding officer of a department, or by sentence of a general court-martial, but they can only be punished for the offenses named as a court-martial may direct.

A court-martial, while it may by sentence order the discharge of enlisted men, is not an essential intermediary when the discharge is ordered by the President, the Secretary of War, or the commanding officer of a department. Discharge of enlisted men is not necessarily, therefore, within the meaning of the Articles of War, punishment for criminal offenses denounced by them, except when done by sentence of a general court-martial, which from the very nature of the case implies trial, conviction, and sentence in a criminal action cognizable in such military tribunal. That discharges may be ordered by way of punishment is also recognized by section 1290, Revised Statutes, where it is provided: "When a soldier is discharged from the service (except by way of punishment) he shall be allowed transportation and subsistence from the place of his discharge to the place of his enlistment." The Articles of War do not expressly classify discharges, but naturally and logically they are classified into honorable and dishonorable discharges. This classification, so far as any specific law or regulation is concerned, though in practice discharges without honor were previously recognized, obtained until 1893, when by Circular 15 from the headquarters of the Army, cases were specified in which discharges without honor would be given. It had been the practice of the Government prior to 1893, though in theory only honorable and dishonorable discharges were known, to give dishonorable discharges, *eo nomine*, by the Executive, when technically they were not dishonorable because not imposed by the sentence of a general court-martial. The Circular 15 of 1893 merely gave expression to this construction and practice and a name to the discharge. After this, therefore, three classes of discharges were expressly recognized—the honorable, the dishonorable, and the discharge without honor. The significance of an honorable discharge is obvious. Under the Articles of War, the regulations of the Army, and the practice of the Government for more than a century dishonorable discharges are those which may be given only in pursuance of a sentence of a general court-martial. As a consequence and of necessity dishonorable discharges can only be given as punishment for the commission of offenses which are named in the Articles of War. Other punishment, it is true, may be imposed by courts-martial for the commission of such offenses, within the limitations prescribed in the Articles of War, but dishonorable discharges can only be given by sentence of courts-martial, and that by way of punishment for offenses named in the Articles of War. There is a middle class of discharges, those which are not strictly honorable nor strictly dishonorable, those where there is a failure to discharge enlisted men with honor.

This class of discharges is known as discharges without honor, and may be generally defined to be discharges given not as punishment for offenses named in the Articles of War, but for causes tainting the character of the discharge or because the Government has not been served honestly and faithfully. It is the settled doctrine of the Judge-Advocate-General's Office, and always has been, that such a discharge is not a punishment and need not be given by sentence of a general court-martial. (Dig. Op. Judge Adv. Gen., 1901, p. 319.) The present very able Judge-Advocate-General of the Army, in his report of November 23, 1906, to the Secretary of War, thus states the authority of the President to discharge without honor in this case:

DISCHARGES.

The separation of an enlisted man from the military service is regulated by the requirements of the Fourth Article of War, which provides that—

"ART. 4. No enlisted man, duly sworn, shall be discharged from the service without a discharge in writing, signed by a field officer of the regiment to which he belongs, or by the commanding officer when no field officer is present; and no discharge shall be given to any enlisted man before his term of service has expired except by order of the President, the Secretary of War, the commanding officer of a department, or by sentence of a general court-martial."

It will be noted that the article above cited contemplates at least two classes of discharges: (1) Honorable discharges, which are given when the term prescribed in the enlistment contract has been served honestly and faithfully; (2) dishonorable discharges, which are given in pursuance of a sentence of a general court-martial. Otherwise the classification of discharges has never been assumed by Congress, but has been left by it to the executive branch of the Government. At present there are three kinds of discharges expressly recognized, to wit: The honorable, the dishonorable, and the discharge without honor. The dishonorable discharge is given only in the case of discharge by sentence of court-martial. The discharge without honor is given in the cases first specified in Circular 15, Headquarters of the Army, 1893, but this circular did not create such discharge; it merely gave it a name. Before the issue of the circular and as far back as the rebellion (notwithstanding that it was from time to time theoretically asserted that the only kind of discharges known to the law were the honorable and the dishonorable, and that all discharges except by sentence of court-martial were honorable) a third kind of discharge was out of necessity resorted to. It is now recognized that there is a kind of discharge which is neither honorable nor technically dishonorable, but must be classified by itself. This is the "discharge without honor."

There were many soldiers summarily discharged during the rebellion for causes tainting the character of their discharges. In numerous

cases the orders were made to read *dishonorably* discharged, although a dishonorable discharge, in the technical sense of that term, can not be imposed except by sentence of a court-martial. A summary discharge can not be a dishonorable discharge, if the term is used in such technical sense, but it may be for a cause tainting the character of the discharge—a discharge manifestly not honorable. Such a summary discharge is now called "a discharge without honor." Its name, however, is only important as a recognition of a discharge, not technically dishonorable, but not honorable in fact. It might not be going too far to say that when soldiers were summarily "dishonorably discharged" during the rebellion the order was so worded simply because the soldier had done something to disgrace the service, and could not be in fact honorably discharged.

Although not having committed an offense of sufficient gravity to warrant his trial by court-martial, the conduct of a soldier may be such as to warrant the termination of his enlistment contract because he has not served the Government honestly and faithfully, as he is required to do by the engagement which is embodied in his oath of enlistment. In such a case, when reasonable efforts have been put forth with a view to the correction of his faults, his enlistment contract may be annulled in the manner prescribed in the fourth article of war. The issue of discharges without honor is regulated by paragraph 148 of the Army Regulations, which prescribes, *inter alia*, that the form for discharge without honor will be used in the following cases:

"148. Blank forms for discharge and final statements will be furnished by The Military Secretary of the Army, and will be retained in the personal custody of company commanders. Those for discharge will be of three classes: For honorable discharge, for dishonorable discharge, and for discharge without honor. They will be used as follows:

"2. The blank for discharge without honor when a soldier is discharged:

- "(a) Without trial, on account of fraudulent enlistment.
- "(b) Without trial, on account of having become disqualified for service, physically or in character, through his own misconduct.
- "(c) On account of imprisonment under sentence of a civil court.
- "(d) Where the service has not been honest and faithful; that is, where the service does not warrant his reenlistment.
- "(e) When discharge without honor is specially ordered by the Secretary of War for any other reason."

Paragraph 146 of the Army Regulations contains certain provisions which, if carefully read, will be found to be in entire harmony with the requirements of paragraph 148, above cited. Paragraph 146 applies exclusively to the case of a discharge at expiration of the soldier's term of enlistment and to the form of discharge which shall be used in that case, and provides that:

"146. The character given on a discharge will be signed by the company or detachment commander, and great care will be taken that no injustice is done the soldier. If the soldier's service has been honest and faithful he will be entitled to such character as will warrant his reenlistment—that is, to character at least "good." Where the company commander deems the service not honest and faithful, he shall, if practicable, so notify the soldier at least thirty days prior to discharge, and shall at the same time notify the commanding officer, who will in every such case convene a board of officers, three if practicable, to determine whether the soldier's service has been honest and faithful. The soldier will in every case be given a hearing before the board.

"If the company commander is the commanding officer, he will report the facts to the next higher commander, who will convene the board. The finding of the board, when approved by the convening authority, shall be final. Discharge without honor on account of "service not honest and faithful" will be given only on the approved finding of a board of officers as herein prescribed.

"When an honorable discharge is given following the action of the board, the fact will be noted on the discharge and on the muster rolls.

"The proceedings of boards convened under this paragraph, showing all the facts pertinent to the inquiry, will be forwarded by the reviewing authority direct to The Military Secretary of the Army."

As has been said, the requirements of the paragraph last above cited are only applicable in determining the character of discharge to be given an enlisted man at the expiration of his term of enlistment. It has never been regarded as restricting the authority vested in the President and the Secretary of War in the fourth article of war.

It would thus appear that the last clause of the fourth article of war vests a discretion in the President to annul an enlistment contract whenever, in his opinion, that course is dictated by the public interest. The English practice, upon which our military administration is to a considerable extent based, is substantially similar to that prescribed in the Articles of War. Clode, in his *Military Forces of the Crown*, says in speaking of the soldier's enlistment:

"Though an engagement is made for a term certain, the Crown is under no obligation to retain the soldier, either in pay or in arms, for that period, but may discharge him at any time. The safety of the realm may depend in some measure on the immediate discharge or dismissal of any man or regiment in arms, and, equally, that the cause of such dismissal should not at the time be disclosed by the responsible ministers of the Crown."—(II Clode, *Military Forces of the Crown*, p. 40.)

The provision of a suitable agency for the investigation of charges of wrongdoing on the part of enlisted men, in the operation of which questions of fact may be investigated, findings reached, and, in case of conviction, adequate sentences imposed, restricts the exercise of the power of summary discharge, which is vested in the President in the article above cited, to cases in which the conduct of the soldier and the character of the services rendered can not be investigated by a military tribunal. In the case under discussion it is an essential incident of a judicial investigation that those who are aware of the wrongful acts committed should testify, under oath, as to facts within their knowledge. To defeat such an inquiry, a considerable number of enlisted men have entered into a criminal combination, in the execution of which they decline to disclose facts which are known to them touching the very serious offenses against public order which were committed at Brownsville, Tex., in August last. In that view of the case, the question presented is, Are men who enter into such a combination rendering honest and faithful service within the meaning of their enlistment contracts? In other words, can men admittedly so disregardful of public authority be trusted and relied upon when upon an occasion of public emergency they are called upon to support it?

A court-martial, while a military tribunal, is judicial in character. In proceedings before it there must be charges against individuals, direct and specific, and in trials the same rules of evidence govern as in civil courts. After most careful and exhaustive inquiry in this case, although there was no doubt that soldiers committed the crimes, it was impossible to discover evidence against individuals as a basis for proceedings before a court-martial. It is not a case, therefore, as is pointed out by the Judge-Advocate-General, which can be investigated by a court-martial.

Other distinctions exist between a discharge without honor and a dishonorable discharge, some of which are named by the Judge-Advocate-General in his memorandum in this case, December 8, 1906. Among these is the right of admission to the Soldiers' Home, the right to be buried in a national cemetery, and the right to receive transportation and subsistence. In each of these cases this right exists when enlisted men are discharged without honor though not when they are dishonorably discharged.

This, Mr. President, is the law; this is the practice; these are the precedents. Under them thousands of soldiers, white and black, have been discharged without honor by the Executive. During the past year 352 enlisted men, doubtless including both white and black, were so discharged. The effort here, if successful, will reverse the course of military justice, shield malefactors and criminals, and enable a league of army assassins and murderers to defy public authority and perpetuate itself. Any less authority, Mr. President, than that claimed and exercised in this case would render the Government impotent and place it at the mercy of any criminal faction which might arise in the Army.

Let us now turn from the law to the facts. It is admitted that no individual soldier has been identified as having been engaged in this outrage; so that the inquiry here is limited to whether it was committed by soldiers or civilians.

I have already stated, Mr. President, that prior to August 13 the conduct of some of the soldiers was offensive to the citizens of Brownsville, and a criminal assault had been made upon a lady of the city by a soldier. In addition to this the soldiers were denied equality with whites in some of the saloons of far-away Brownsville; there was a difficulty between a soldier and a customs officer at the crossing of the Rio Grande; and a soldier was struck over the head with a pistol by another customs officer for rude conduct toward the wife of that officer. What resentment, Mr. President, this created in the minds and hearts of the soldiers is well expressed by the colored citizens of Boston and vicinity in a series of resolutions adopted by them at their recent meeting in Faneuil Hall. Hear what they say, as I read from a copy of a paper sent to me by some of them through the mail. They do not deny that soldiers committed the deed, but they give reasons why they did so. They say:

Brooding on repeated insults and outrages, a few of these colored soldiers went into the town on the night of August 13 last with their guns, determined to do for themselves what the uniform of their country could not do for them and what the police power of white Brownsville would not do for them, viz, protect them from such insults and outrages and punish at the same time the authors of their misery.

There is the resentment, there is the motive, there is the malice, there is the purpose, Mr. President, not only to resent some injustice which may have been done them, but, as stated by their colored friends about Boston and its vicinity, to punish the authors of their misery.

Now, Mr. President, what of the evidence in this case? It has been said that the only evidence is that taken before a committee of citizens of Brownsville, the chairman of which was an ex-Army officer and a Republican. But that is not true, Mr. President. The very report and document from which that testimony was read shows that Major Blocksom, the inspector-general, made inquiry and took the testimony of more than fifty witnesses composed of all classes of people in the city of Brownsville—officials, private citizens, Confederates, Union men, Republicans, Democrats, and not a man, woman, or child in the community doubted the guilt of these ruffians.

It is not customary, Mr. President, for the Inspector-General or any of his assistants in making investigations necessarily to take the testimony in writing. An Army officer was supposed to be a man of honor, at least until these proceedings arose. Something was supposed to be due to his character and that he would not willfully misrepresent facts, which would subject him not only to the criticism and censure of the people, but to trial by court-martial. Why was not that stated?

I have nothing to do with the President personally in this matter. I care nothing about his personality in this case. My personal relations with him, Mr. President, are about as cordial as those of the Senator from Ohio [Mr. FORAKER]; but it

ought to have been stated, in all fairness, that the country might know it, that this conscientious American soldier went into Brownsville, talked with the citizens, talked with the officers and soldiers, talked with every class of people, and then upon his honor reported to the President of the United States that the testimony upon this question was without doubt.

But I shall read some of the testimony that was taken by the citizens' committee, and that testimony was taken, Mr. President, in conjunction, I believe, with Major Penrose, the commanding officer of this battalion of soldiers. I wish to read some of it, and I shall print in the RECORD all of the testimony of any single witness from whose testimony I read and not present it detached and garbled. Remember, now, I am on the proposition that soldiers and not civilians committed this act of wanton savagery upon an unsuspecting and sleeping people. Talk about the uniform of the soldier; talk about the honor of the Army; talk about the glory of the flag! Mr. President, the law and public indignation should drive every such scoundrel from the Army, that its record may continue to be such that honorable men can point to it with pride.

Now, let us see. Let us take Mr. George W. Randall. His house is within 60 feet of the garrison, and remember, Mr. President, because I do not want you to get away from that proposition, the question is whether this outrage was committed by soldiers or civilians. That is the point now.

TESTIMONY TAKEN BY CITIZENS' COMMITTEE RELATIVE TO ACTION OF UNITED STATES TROOPS ON THE NIGHT OF AUGUST 13 AND MORNING OF AUGUST 14, 1906.

BROWNSVILLE, TEX., August 14, 1906.

Mr. George W. Randall takes the stand.

Q. Tell what you saw from the time your attention was first attracted.—A. Well, I was sleeping about 10 o'clock and was woke up by pistol shots fired close to my house, about 60 feet from garrison, inside of garrison wall. I got up and went to the window, my wife with me. We could see men moving back and forth inside the garrison wall, and they were shooting. One man in particular. I watched the shots, seeing the fire leave the pistol, and it was elevated up in the air and was being fired about as fast as a man can move his finger. There were other shots, but I did not notice them.

Q. What time was that?—A. About 10 o'clock, I think; though I did not strike a light to look. The next move that I saw and what I heard was one word—there was a good deal of talking, but very low—one man said "There he goes," and they made a move for the wall and passed out of my sight.

Q. Did they have guns in their hands?—A. I could not tell.

Q. Were they soldiers?—A. Yes.

Q. You could see on the town side of the garrison wall?—A. Yes.

Q. Did you see any shooting on the town side of the garrison wall toward the garrison at the time of the firing?—A. No.

Q. Then all the shooting you saw was from the inside of the garrison?—A. The shooting I saw—and that was through the flash of the pistol, and every one of those flashes was elevated—did not seem to be shooting at anything.

Q. When you saw the flashes of fire could you tell in what direction such fire was?—A. It was elevated.

Q. Was it toward town or away from town?—A. Toward town.

Q. How long did that shooting continue?—A. I do not think it was more than five or six minutes.

Q. Were there other shots fired from the post also later?—A. (Not known.) The first shot came from the garrison wall down below; the next one passed through my room and went directly over my bed.

Q. How long was that after the first shot was fired?—A. Five or six minutes.

Q. That last shot that went through your house, judging from the direction of the shot, would you suppose it was fired by somebody who ran out of town through the alley?—A. No; it could not have been. My house stands [motioned toward the fort], and the place where it went into my house [motioned again] and the place where it went out [another motion] was about 6 inches above where it went in. Stenographer can't comprehend motions.)

Q. After the first shot was fired, how long was it until you heard the last shot?—A. I could not tell. My wife said it was between a half and three-quarters of an hour, but I think it was not that long.

Q. The shot that came through your house came from the direction of the garrison?—A. Yes; about the lower end of the lower quarters.

Q. That was several minutes after the first fire?—A. Yes.

Q. Do you remember whether it was before or after the bugle call was sounded?—A. It was after; a long time after. The first bugle call that I heard—it was a peculiar call—was two or three minutes after they left the quarters and jumped the wall and started this way.

Q. It was after the bugle call?—A. Yes; and it was quite a little while before that man got the squad together and came up Elizabeth.

Q. There were two bugle calls?—A. Yes.

Q. Was this after the first or second bugle call?—A. The last.

Q. Did you see anything of the placing of a Gatling gun in the gate last night?—A. No.

Q. You were in view of the gate all the time?—A. Yes.

Q. You could have seen it?—A. Yes. [Continued.] The first shots that I heard seemed to me as though they were a little to the left. When I got up and went to the window I saw that they were shooting up.

(Excused.)

Mr. O. J. Matlock takes the stand.

Q. (By chairman.) This committee is engaged in investigating what occurred last night. It has been stated that some soldier addressed you and told you that it would be dangerous for you to go up the street after 10 o'clock.—A. No; no one addressed me that way. The only conversation that I had was with the commander of Company B (I think it was), and he said that his instructions were to keep his men in at night, and that he was going to call them back. I had no talk with a soldier, and knew nothing of it, except that there was a little strange situation on account of the affair Sunday night.

Q. Where were you during this shooting?—A. Behind the guard-house, at Mrs. Johnson's house.

Q. Did you see anybody do any shooting?—A. No. I went up to the guardhouse to see what was the matter. They said they did not know, and came near running their bayonets into me, they were so excited. They said they knew nothing about it.

Q. Do you know anything about the roll call there last night?—A. No.

Q. Anything about the guns?—A. No; except what I have heard.

Q. Did you make the statement that the guns have not been returned to the racks yet?—A. No; for I don't know anything about it. I had a talk with some of the officers this morning, and they told me that the guns had not been tampered with. They had an idea that the guns could not be gotten hold of except for drill purposes.

Q. Is that still their idea?—A. No; I think not.

Q. How long would it take a man to go from the officers' quarters over to the men's quarters?—A. They were in bed, and, having to dress, it would take maybe eight minutes to get their clothes on and get over there. Maybe all of eight minutes.

Q. Do you know anything that might be of the slightest help to this committee?—A. No; nobody out there knows anything about it. The general opinion is that they will never know anything about it as long as they stay here, unless one of them gets full and tells it.

Q. Did you state that you were told not to go out that night?—A. Yes; I was washing my hands when the shooting commenced, and I went up there, and they were very excited and told me I had better get back into the house or I might get hurt.

Q. That was while the shooting was going on?—A. Yes; I started to go, and they said, "Don't go yet awhile." So I waited.

Q. Was the officer of the guard there?—A. There is no officer of the guard, except the noncommissioned officer. He was on his round. I heard him make his round about 11 o'clock.

Q. If there was a guard on last night, did not he know anybody who went into or out of the post?—A. No; he might be around the barracks, and a person could come in the gate.

Q. But if they had a special patrol? With that they should be able to keep people out?

(Answer not known.)

Q. I understand there was one man with each squad who has entire charge of the arms and ammunition. If any arms or ammunition went out of there or went in, he was bound to know?—A. He ought to know it, if he was up all night. If he was in bed, he might be misled.

Q. These arms are under lock and key, and this party has charge of the key?—A. Yes.

Q. And he should be responsible?—A. Yes.

Q. A guard who would be up at the end of the third quarters, it would be an easy matter for any number of men to jump the fence before he could get back and see who they were?—A. Yes. It is about 500 yards.

Q. What Gatling gun is there in the fort?—A. There is only one, but it was not got out.

(Mr. KELLY stated:) It was a very old gun—one of the guns that was on the old Bravo in 1872.

(Witness excused.)

Mr. Jose Martinez testified before the committee:

Q. You know the object of this committee. Just state what you know or what you saw.

(Question of speaking English raised. Interpreter dispensed with.)

Q. Where were you last night?—A. In my room in Mr. Randall's house, right behind the telegraph office [pointed out place on map]. On alley fronting the post in block 61.

Q. Were you there last night?—A. Yes; I was reading the paper when I heard four shots.

Q. What kind of shots; pistol or rifle?—A. Gunshots.

Q. Where were they?—A. Inside the quarters. I hear the noise like somebody—big crowd—jump the fence.

Q. About how many?—A. I could not see him; I hear.

Q. Well, more or less?—A. About 20.

Q. Did they have guns in their hands?—A. Yes.

Q. Were they negroes or white men?—A. Negroes.

Q. Did you see their uniforms?—A. No; I saw their—what you call it?—bulk. I could see them shooting this way [makes motion at hips]. I could hear men come up Elizabeth street and other men go down the alley.

Q. How many shots did you hear, more or less?—A. I could not tell; about forty or fifty.

Q. Was that before or after the first bugle call? Did you hear the bugle call?—A. Yes.

Q. Did these men come over before or after?—A. They shot and then the bugle.

Q. Then you heard other shots?—A. Yes.

Q. Then a second bugle call?—A. Yes.

Q. How long was it between the two bugle calls?—A. I think it was about three minutes.

Q. Did you hear them call a roll on the other side?—A. No; I was sleeping by that time.

Q. Could you hear these soldiers talking any?—A. Yes.

Q. What did they say?—A. I did not pay any attention to them.

Q. Do you remember anything they said?—A. No.

Q. Did they curse?—A. Yes.

Q. Were they drunk or not?—A. I could not tell you.

Q. Did you see said men [Kibbe's question] go back?—A. No.

Q. Can you show us on the map where the first crossed the wall?—A. (Goes to map and points.) They jumped over the wall all along.

Q. Did they have guns in their hands?—A. Yes. I was standing in the door.

Q. Were they inside or outside the wall when the first shots were fired?—A. Inside.

Q. Then they jumped over the wall and ran uptown?—A. Yes.

Q. All of them with guns?—A. Most of them I saw with guns.

Q. Some of them ran straight up the alley. Do you know whether any of them ran up Washington street?—A. I don't know. I blow out my light.

Q. Have you any idea how many men crossed that wall?—A. I saw about twenty men. I don't know how many of them jumped the wall.

Q. Did you see the soldiers when they came back to the garrison?—A. No.

Q. Did you see any of them come up Elizabeth street?—A. I could not see them; I hear them come up Elizabeth.

Q. Did you hear any shots from the town side before you heard them on the inside?—A. No.

Q. You live about 30 feet from the garrison wall?—A. Yes. (Some one ventured the information that it is just 36 feet.)

Q. Were these four shots that you heard first all the shooting that

took place until they passed your house?—A. No; when they jumped the fence they commenced shooting.

Q. Which way were they shooting?—A. This way.

Q. The guns were shooting straight?—A. Yes. Maybe some of them were elevated.

Q. That is all you know about it?—A. That is all.

Q. There were quite a number of shots fired before the first bugle?—A. Four.

Q. Were there not more shots than that before the first bugle call?—A. No.

Q. They continued until the second bugle call?—A. Yes.

Q. Were there any after the second bugle call?—A. Yes; lots of them.

(Excused.)

Mr. President, there follows the testimony of a number of witnesses.

I shall print it all, but I wish to read the salient features of it to the Senate to-day. Here is a man, Baker, who climbed up on a tank so that he could see beyond the wall of the garrison. What does he say? Baker is the man who had had trouble with a soldier at the crossing of the Rio Grande.

Mr. A. Baker called to stand.

Q. Just tell what you know.—A. I heard shooting during the night; don't know exactly what hour.

Q. Was it a pistol or rifle?—A. It sounded like a pistol. I jumped up and my brother came out and asked what it was. We climbed up on a tank and looked over into the fort. The shooting commenced. There were four or five shots near the wall. Then they commenced shooting uptown.

Q. Where do you live?—A. Near the old ice plant, in lot 9, block 59, I think.

Q. Did you see the men cross the wall?—A. No.

Q. Do you remember hearing a bugle call?—A. Yes.

Q. Was the firing before or after the bugle call?—A. There were some shots before the bugle call; then the bugle; then more shots; then the bugle call; then more shots. I heard the men run down the stairs, like they were coming to a fire, and some one hollered, "Fall in line," and then, "March," and they went uptown.

Q. Did you hear the roll call?—A. Yes; about half an hour after they got back—a half or three-quarters of an hour after the firing ceased and they went back to the post.

Q. From where you were, could you look down in the alley?—A. Yes.

Q. At the time of the firing, or within five minutes after the firing, did you see anyone running through the alley?—A. No.

Q. Were you expecting trouble last night?—A. Yes. Yesterday evening, about 6 o'clock, two soldiers came up to the house and asked if Mr. Baker lived there. Then they said they wanted a big, broad-shouldered fellow, who said he was from Georgia. So we got our arms and guarded our residence.

Q. Do you know of the shot that Mr. Randall spoke of having gone through his room?—A. Yes; I heard it whistle.

Q. Did you notice the flash of any guns toward the fort?—A. No.

Q. If they had had a roll call you could have heard it?—A. Yes; I heard the last one and heard nearly every name called.

Q. Why were you noticing this?—A. After they had the other trouble the officer told him to report to him and that he would have a roll call and get who was out. So I noticed for the roll call this time.

Q. Did you hear the shooting up in town?—A. Yes.

Q. How many shots did you hear?—A. One hundred and fifty, maybe two hundred. It looked like volleys of them were being fired.

(Excused.)

Mr. A. C. Moore testified:

Q. This committee is sitting for the purpose of getting information that will place the saddle on the right horse. You are running the Miller Hotel?—A. Yes.

Q. Are there any bullet holes in the hotel?—A. Yes; about six.

Q. Shot by whom?—A. By people; last night.

Q. What time?—A. About 12.

Q. Did you see anyone shoot?—A. No.

Q. Did you hear?—A. Yes.

Q. Tell what you know.—A. The first shooting started down by the garrison. The shooting still continued, and they came up the alley right by our rooms. They gave the command here and fired. Then they came out on Elizabeth street. There they gave the same command again—"Halt; fire!"

Q. Could you tell who they were—negroes or white people?—A. Well, it was a good, strong voice and English spoken.

Q. Could you see them?—A. No; I could not leave my wife; she was in hysterics.

Q. You heard those commands?—A. Yes; and heard them say, "There goes the son of a bitch," and something else, "Get him!"

Q. Could you say whether it was a negro's voice?—A. I think it was. It was very coarse.

Q. After the command what did they do?—A. Well, they ran on down, and there was a shot or two fired then.

Q. Toward the corner of Thirteenth and the hotel?—A. Yes. Then they gave another command. The best that I could locate it was from this corner opposite the hotel. Then they fired, and must have fired that volley at the hotel, for there are the bullet holes showing that they must have been shot from that corner. One of them passed through a window facing and through a door and struck the wall.

Q. Have you got any of those bullets?—A. Yes; I gave them to Fred. Combe.

Q. What were they?—A. Steel jackets.

Q. How many shots did you hear?—A. About fifty.

Q. Where did they shoot the policeman—right here [pointing out of window of Wells's office]?—A. I do not know, but they were bound to have shot him when they came out of the alley, for then they hollered, "There goes the son of a bitch; get him!" Then I picked up a lot of bullets [meaning cartridges, evidently] in the alley, empty and loaded.

Q. What were they?—A. 1205, new army gun, Springfield model.

Q. That is all you know?—A. Yes.

Q. Do you know whether or not any of your guests actually saw the negro soldiers?—A. Yes; Mr. Borden and Mr. Chase had their heads out of the window and saw the squad of five or six. They shot just about then, and the bullets hit right close to the window. One bullet came through the screen, and when it hit the window went straight up.

(Excused.)

Mr. Canada testified:

Q. We are inquiring into the matter of last night with a view to ascertaining who the guilty parties are. We know they were negro soldiers. If there is anything that would throw any light on the subject we would like to have it.—A. I did not see a single man that I am sure. My room is up on third floor. As soon as the shooting began I went down on second floor and went out on the gallery. I saw that policeman and saw that the horse was wounded. He staggered and fell. I could tell by his rather dark clothes that he was an officer.

Q. Could you see who fired the shots?—A. No; I could not give any description of the men. I could hear the peculiar click of the gun, and I would swear it was a rifle.

Q. Could you tell whether it was an ordinary rifle or a Krag?—A. They were the same as the shots fired in the alley.

Q. You could not hear them say anything?—A. Perhaps, if I had been listening for that purpose alone.

Q. How many shots were fired from the corner at the horse?—A. At least three.

Q. How many in all did you hear?—A. Not less than 150; perhaps 200. Between those two numbers. It is more or less a guess.

Q. Did you hear any commands? Hear "Fire," or anything that way?—A. The only thing I heard them say was, "We got him," when the horse fell.

Q. Did you see or hear anything that would lead you to believe that they were negro soldiers?—A. Nothing except the general tenor of the affair.

Q. The next firing was up the street?—A. Yes; they went on up the street firing.

Q. From the tone of the voice that you heard make the remark, "We got him," were they Americans or Mexicans?—A. I think they were negroes. I was raised among them and knew their voices pretty well.

(Excused.)

Doctor Combe states what Mr. Odlin, who is now out of the city, said in regard to the shooting (made in presence of Judge John Bartlett):

That about the middle of the night of August 13 he was standing at a window of his room in the Miller Hotel and he heard a squad of men coming down the alley; that they arrived at the corner of the alley and he recognized that they were five negro soldiers; that when they arrived at the intersection of Thirteenth street and this alley one, apparently in command, gave the order, "There he goes; shoot him." That immediately a volley was fired, and then one of the men leveled his piece at the window and fired, the bullet passing through the casing and going into the ceiling directly over his head. One of his children fell to the floor and he thought it was shot. His wife was present at the window.

(Judge Bartlett affirmed statement.)

Mr. McDonald testified:

Q. We are here to get what information we can that will throw light on the circumstance.—A. I board on the little block next the garrison, about the middle. I knew there was bitter feeling in town and thought that if they caught any negro soldiers up town they might to [sic] them up. So I laid awake; never pulled off my shoes. When the first fire started I jumped up. There were from six to ten shots on Elizabeth street; then they ceased. I went down the street to the next block and on to the alley, and stopped on the corner. The shooting commenced again just inside the garrison wall. Then I saw some men assembled by the garrison wall near the telegraph office. There were about twenty men. I don't know where they came from; did not see them scale the wall or come through the gate. I think they were in trousers and shirts. I don't know whether they were negroes or white men, but they were United States soldiers. They went into the alley where I first stopped (I had moved back) and commenced shooting. I was thirty or forty steps from them. Five or six men went up that alley, and I could see their guns distinctly. I did not hear any roll call, but I went home soon after that and then came down town.

Doctor Thorne called.

Q. Tell the committee what you know.—A. I know nothing except what I heard. I heard the firing when it commenced, and supposed there was a rampage. I was in bed. There was only a thin wall between me and the alley. I heard one man say, "There he goes," or "There they go," or "There he is;" then another spoke in a loud voice, "Give them or him hell," and louder still, "God damn him." It was a negro's voice. Three bullets went into my house. I did not hear them go back down that alley, for I got up and went down town.

(Excused.)

Mr. Herbert Elkins testified:

Q. You know the object of this meeting. We know that this outrage was committed by negro soldiers. We want any information that will lead to a discovery of whoever did it.—A. About fifteen minutes before the shooting came up I went up to my room in the Lahay Hotel, second story back. When the shooting commenced I got up and sat in the window. They came up the street; two of them seemed to be in the lead. There were five or six. I could swear they were negro soldiers. They emptied their guns into Mr. Cowen's house and then split up, and part of them went up Elizabeth street. One of them got into a mudhole and hollered for the others to go around the other way. They wore khaki pants, regulation blue shirts, and belts. The two in advance were small black negroes, none of them over 5 feet 6. I might recognize the voice of the one that got into the mudhole, and think I could recognize him, but maybe I could not pick him out. They did not turn back when the bugle call sounded, but went on, and in a little while they came back. I saw them shoot into Mr. Cowen's house once, and I think they shot into it three times. They got back to the barracks before the roll call and I think before the squad went out in town. When the squad went back I was standing with Mrs. Lahay at her front gate, and the squad passed within a few feet of us. One little black negro, who I took to be the same one that got into the mudhole when they were shooting into Mrs. Cowen's house, said, "We'll kill the rest of the sons of bitches to-morrow." I heard the policeman shoot uptown; could tell it because the shots were dull.

(Excused.)

Macedonio Ramirez called to stand. (Policeman on duty that night.)

Q. You were with Joe Dominguez?—A. Yes.

Q. Did you see the shooting?—A. Yes.

Q. Did you see the soldiers?—A. Yes.

Q. How many?—A. Five or six.

Q. Where were you?—A. When the first shots were fired I was standing at the corner of the Alamo alley. When I heard the shots I ran

to the next corner. I then ran down Washington street until I reached Mr. Bolack's corner. When I reached Bolack's corner I met the lieutenant police and Padron coming from the direction of the garrison. I asked the lieutenant police what was up. He said he did not know. He supposed the soldiers were firing. As we turned the corner—the lieutenant police was ahead, Padron was behind him, and I was behind Padron—we heard one or two shots from the corner of the hotel. As we came near the alley we heard the locks of the guns that they were loading. When we were in front of Mr. Wells's office five or six soldiers appeared at the corner of the alley. One of them said, "Here he goes; shoot him," and three or four shot at Domingo, and one of them remarked, "Give it to him." None of us shot. Padron went up Washington street and I went up Thirteenth street. When I reached the house where Mr. Carson keeps they shot my hat off. I heard them shoot in the direction in which the other policeman ran. I ran up that way and came back down on Elizabeth street and intercepted the company. I was standing on Crichell's sidewalk; the company was in the middle of the street, and Marcellus was on the opposite side of the street. One of the men called the attention of the captain to the fact that there was a man in the street with a gun in his hand. Marcellus Daugherty stated that he was an officer of the law. He ordered them to march, and they stood still. Then he ordered them the second time, and they marched. Some of the men had their guns on their shoulders and some of them carried their guns in their hands. They were talking and seemed to be in a bad humor. They said something to their captain when he ordered them to march, and he ordered them a second time, and they marched on. They had stopped and said, "There is a man with a gun in his hand."

GENARO PADRON'S TESTIMONY.

My name is Genaro Padron. City policeman of the city of Brownsville. On the night of the 13th instant about 12 o'clock I was at the corner of the Merchants' National Bank, when I first heard some shots in the direction of the garrison. It was in the direction of Fort Brown. I was then starting up Elizabeth street with Florencio Briseño; ran very fast toward the garrison, and then as I was passing Mr. Tillman's saloon I asked him if he had a gun, and he said that he had only a .45 caliber, which I took. I ran in the same direction, up the street with Briseño, turned the other street, and went near the corner of Bolack's house, and then went up his side of the house and turned the corner and went into the Pecina's yard. Before that I had met Lieutenant Policeman Ygnacio Dominguez, who was then in front of me. I then came next, and Macedonio Ramirez was behind me. I told him "You had better not cross that alley, for the soldiers are firing from in there," and he then crossed the alley and was looking in the direction I had told him the soldiers were, and at that moment they came out and opened fire on Dominguez. As I said before, I was behind Dominguez and Macedonio Ramirez was behind me. I could hear the soldiers were talking. I then came around the corner and looked about, but I did not see anybody. I then saw the lieutenant police, Dominguez, cross the alley and Macedonio and myself coming right behind. After the lieutenant policeman Dominguez had gone across I could see the flashes of the guns giving the reflection on the glass windows of the opposite building. And then I saw the lieutenant police, Dominguez, go in a walk on his horse crossing the alley, when I then heard a soldier say: "There he goes." I then backed a little, but I could never see Macedonio Ramirez after that. I was trying all the time to find out where he had gone. When the soldiers came out of the alley they turned their guns and fired. There must have been three or four of them. Then about three more came out at the corner of Bolack's house out into the street and fired on Dominguez. After that I backed and fired my pistol at them, and then they fired on me. At that time I turned toward the Sahualla's store, Washington street, and saw that they were about seven or eight soldiers, armed with rifles, going in the middle of the street, and I then took said Washington street, hiding and walking in the dark, taking behind the trees that are on the sidewalk, and then they fired another volley. When I got near a big nogul (walnut) tree they recognized me, and they fired again at me, but I kept backing and backing every time until I got to the corner of Sahualla's store, but I keeping in the shadow all the time, taking the sidewalk of Nicolas Lopez's store, then turned around toward Miguel Fernandez's store, when at that time I heard some one speaking, who asked me what it was, and I looked over my head and saw it was somebody, and I then told him that the soldiers had broken out of the post, firing upon the police force. I then went up to the corner of the First National Bank, turned there, and went toward the Merchants' National Bank and got behind a thick post—the thickest one that was around there. I then heard that some one was knocking at the door of McDonald's store and went in that direction and asked him, "Who is that?" And he replied, "It's the mayor, Federico Combe," and we then walked up the street toward the Merchants' National Bank, and I then told him that the soldiers had broken out of the garrison, and perhaps Lieutenant Police Ygnacio Dominguez was hurt, as I had left him some few moments before. I did not know where he was. We then came in the same direction of the street. By that time people were congregating on the street near Tillman's saloon, and somebody said there is a dead man in there. Then the mayor went in and told me to keep guard at the door and not to let anyone pass unless he was a peace officer. I then said, "Two more policemen are missing, José Coronado and Florencio Briseño." Both of them were not there. Yes, sir; I know they were soldiers, because they were in their uniforms. This talking I heard near the alley of Bolack's was just opposite the door of Bolack's, the big entrance door, about the third door from the alley corner, I think. Yes; I heard voices say, "There he goes; shoot him." Then it was when they fired on Lieutenant Police Dominguez. That is all.

That, as I will print it in the RECORD, is from the testimony taken before the committee of which Capt. William Kelly was chairman.

Now let us see if there is any testimony of the negro soldiers themselves that will throw light upon this question. Artificer George Newton, Company D, Twenty-fifth Infantry, testified before Lieutenant-Colonel Lovering:

ARTIFICER GEORGE NEWTON, COMPANY D, TWENTY-FIFTH INFANTRY.

Q. Where were you on August 13 when the shooting commenced at Brownsville?—A. I was in my bed asleep, in quarters; in barracks.

Q. Anybody in Brownsville ever abuse you?—A. No, sir.

Q. Have you ever been in a saloon in Brownsville?—A. I went in a Mexican's place there.

Q. Ever in a white man's saloon?—A. The first night I got there I was in one, the name of Mr. Taylor, I believe; some of the Twenty-sixth fellows carried me in there and gave me a glass of beer.

Q. White men in the saloon?—A. Yes, sir. He invited us back. I never had opportunity; was a carpenter.

Q. Did they have a separate bar for colored men in the saloon?—A. Yes, sir.

Q. Did you object to that?—A. No, sir.

Q. How long have you been in the service?—A. When I complete this enlistment I will be started on my tenth year. There was nothing said about these three fellows of the Twenty-sixth taking me in and giving me a drink. The gentleman took me out to a place where he was going to open a restaurant for our boys—for colored men.

Q. Did you object to that?—A. No, sir; because in place where I was raised they have them that way; kind of garden like in rear of building.

Q. Did you ever talk with any of the men on the subject of having a separate bar?—A. No, sir; I did not have but a very little said to me anyway. Went to a drug store to get some pills, I believe it was, and to get some writing-paper tablet.

Did the white soldiers of the Twenty-sixth Infantry, displaced by the negroes, at Fort Brown, believe there was any trouble brewing on account of sending this particular battalion of troops to Brownsville? Here is the testimony of one of the soldiers, the artificer, Newton, who continues in his testimony:

Wanted to know where we were from, and I told him; he said, "You boys is the nicest set of boys I ever met. We have learned from the boys of the Twenty-sixth that you were going to be awfully rough here. You are the nicest set of fellows I ever met."

Q. Did you buy anything at this drug store?—A. I bought some pills and a tablet, I believe it was.

Q. Did they object to selling to you?—A. No, sir. The first drug store I went to I walked in, and nobody said anything to me. Some gentlemen in there talking. I stood around for a few minutes; nobody said anything; didn't ask me what I wanted or anything, so I walked out. They didn't say anything to me nor did I to them.

That is the statement from one of the soldiers that it had been reported by the "boys of the Twenty-sixth," a white regiment, that the men of this battalion would be pretty rough at Brownsville. The soldiers of the Twenty-fifth Infantry had been pretty rough elsewhere, as you will remember, at Fort Bliss in Texas and at some place in Nebraska.

Here is the testimony of Jacob Frazier, first sergeant Company D, Twenty-fifth Infantry. Does he believe that negro soldiers committed this offense? I think so. I will read a paragraph from his affidavit taken before Captain Lyon:

FORT BROWN, State of Texas, ss:

Personally appeared before me, the undersigned authority, one Jacob Frazier, a first sergeant of Company D, Twenty-fifth Infantry, who, being duly sworn according to law, deposes and says:

"About 12 o'clock midnight, August 13, 1906, I was asleep in my house, which is situated about 100 yards east of the east set of soldiers' quarters. I was awakened by two shots being fired from the road in rear of B Company quarters, as near as I can judge. My first impression was that it was the alarm of fire. I immediately got on some clothes and started to run for the company. Then a fusillade of shots was fired from along this road, and the call to arms was sounded. When I was passing in front of Company C quarters I distinctly heard some one shout 'Cease firing,' several times, and it seemed to come from the road in rear of barracks. When the fusillade of shots started and the call went, I thought the post was being shot up by the civilians of Brownsville. When I reached barracks the men were coming out with their guns, and I fell in the company and checked them, using a lantern. Two men were absent on pass, Corpl. C. H. Hawkins and Private Walter Johnson. When the company was formed Captain Lyon took command and took up a position along the wall in rear of the barracks. Then we patrolled through town and returned to the post. I do not know who did the firing. I would not believe that the soldiers had anything to do with it until I was told that Government ammunition was found the next morning. I do not believe that any member of D Company was implicated in the affair. I know of nothing that could have caused or that would warrant this firing."

"JACOB FRAZIER,
First Sergeant Company D, Twenty-fifth Infantry."

Subscribed and sworn to before me at Fort Brown, Tex., this 21st day of August, 1906.

SAMUEL P. LYON,
Captain, Twenty-fifth Infantry, Trial Officer, Summary Court.

Here is the testimony of the cook of Company D, by name Charles Dade. What does he say?

FORT BROWN, State of Texas, ss:

Personally appeared before me, the undersigned authority, one Charles Dade, a cook of Company D, Twenty-fifth Infantry, who, being duly sworn according to law, deposes and says:

"About 12 o'clock midnight August 13, 1906, I was asleep in a house which I had rented for my wife and family, situated directly across the street from the kitchen door of barracks. I was awakened by my wife, who said there was some firing going on outside. I went out and saw there was no shooting near my house, so brought my family across the road to barracks. Just as I reached the wall in rear of barracks the call 'to arms' was sounded. The firing continued while I was crossing the road and after I had crossed. I did not see any flashes from guns, nor do I know what kind of firearm was being used. There was no firing in the road in rear of D Company quarters; it came from the vicinity of the post gate and the telegraph office, it seemed to me. After I had reached barracks I remained in the kitchen. I do not know who did the firing, nor do I know what could have caused it."

"Further deponent saith not."

"CHARLES DADE,
Cook, Company D, Twenty-fifth Infantry."

Subscribed and sworn to before me at Fort Reno, Okla., this 4th day of September, 1906.

SAMUEL P. LYON,
Captain, Twenty-fifth Infantry, Trial Officer, Summary Court.

I next call attention to what Colonel Lovering, of the In-

spector-General's office, born in Vermont and appointed from New Hampshire, says that Cook Dade's testimony shows:

Cook Dade's affidavit shows that a man could have taken part in the shooting and returned to his company undetected.

Mr. President, what do the Army officers say who investigated this question? I said at the outset that every Army officer who had investigated it—I do not care whether he is from Georgia or South Carolina or Ohio or Vermont or New Hampshire—reports to the President upon his honor as a soldier that there is no reasonable doubt of the guilt of these soldiers. Here is Major Penrose, who commanded the battalion, from Dakota, I believe. He says:

Were it not for the damaging evidence of the empty shells and used clips I should be of the firm belief that none of my men was in any way connected with the crime, but with this fact so painfully before me I am not only convinced it was perpetrated by men of this command, but that it was carefully planned beforehand.

The next day Major Penrose telegraphed to The Military Secretary at Washington.

BROWNSVILLE, TEX., August 16, 1906.

THE MILITARY SECRETARY,

War Department, Washington, D. C.:

Reference your telegram yesterday, a shooting occurred in Brownsville about 12.10 morning of 14th, in which one civilian was killed and the chief of police wounded in right arm, which had to be amputated. Believe shooting was done by enlisted men of this post, but have not as yet been able to detect guilty party.

Here is an extract from the report of Major Blocksom, which I will not stop to read, because I dare say Senators are familiar with it, but I will print what he says upon the subject:

From the evidence obtainable I believe the first shots were fired between B Company barracks and the wall separating post from town. A number were fired into the air for the purpose of creating an alarm. The soldiers, nine to fifteen, possibly more, then jumped the wall and started through town. There is no reliable evidence to support the claim that the first shots came from town, and no bullet marks were found on barracks. From their direction, etc., I am sure three shots through Mr. Yturria's house came from a point near the center of B Company's upper back porch. A Mexican boy sleeping on the floor of the Yturria porch said they were among the first fired.

Mr. Randall lives near the telegraph office opposite post gate. A bullet went through his sitting room; it came from a point near the wall opposite southwestern end of C Company barracks. Some of the first shots fired also came from the vicinity of D Company barracks. The line of barracks of D, B, and C Companies runs northeast to southwest. The wall between post and town is parallel to and about 75 feet northwest of line of barracks. An alley through town, perpendicular to wall, beginning at a point nearly opposite space between B and D Company barracks, was the line of operations (about three blocks in length).

The raiders first struck Cowan's house (at end of first block). There were two women and five children in it. It is a miracle some of them were not shot. The raiders could not help knowing they had not yet gone to bed. About ten shots were fired, nearly all going through house at a height of 4½ feet or less above floor. One shot put out the lamp sitting on a table. Mrs. Cowan has been on the verge of hysterics ever since. In is said the Cowan children had made fun of "the nigger soldiers;" but I could not pin down the reports. There must be some truth in them. The lieutenant of police, Dominguez, heard the firing and rode toward it, accompanied by two policemen. Near the corner of Miller Hotel (end of second block) the two policemen turned back, but Dominguez kept on, and the raiders started firing upon him. He said there were about fifteen colored soldiers in the party. He was mounted on a white horse, and went half a block after reaching corner of hotel, when his horse fell dead, shot through the body several times. The raiders were probably at the corner and continued firing on the fleeing man until horse fell. Dominguez was shot in right arm (afterwards amputated below the elbow). He did not even draw his revolver from holster. A number of shots were also fired at the other two policemen. Dominguez, many years on the police force, is universally respected. The raiders fired seven or eight times into the Miller Hotel, including several shots at a guest sitting by a window. After shooting Dominguez they divided. One party proceeded along the alley. Frank Natus, bartender in Tillman's saloon (about two-thirds the way down third block), heard them coming and started to close the back door, but was shot and probably instantly killed about 20 feet from door. A Mexican in the saloon, Preciado by name, was slightly wounded in the hand by a bullet which passed through his coat. Natus had never had any trouble with the soldiers, as far as known. Five or six shots were fired through that back door. This party tried to get into the back door of another saloon, but it was closed.

The other party went half a block to the right, then turned to the left and fired five or six shots into Mr. Starck's house (second from corner on street parallel to alley), evidently mistaking it for Tate's (which is third). Bullet marks in Starck's house are higher than in Cowan's. Mrs. Starck said two shots went through mosquito bar over bed in which she and two children were sleeping. These were the last attacks, and raiders then probably ran back. Bullet marks were found on several other houses in vicinity of those already mentioned.

None of the individual raiders was recognized. Streets are poorly lighted, and it was a dark night. Those who saw them were busy trying to keep out of sight themselves. The soldiers were comparative strangers in town, having arrived only two weeks before. That the raiders were soldiers of the Twenty-fifth Infantry can not be doubted. The evidence of many witnesses of all classes is conclusive. Shattered bullets, shells, and clips found are merely corroborative.

Though Senators have read the report, I wish to read just here the basis of Major Blocksom's report in this case:

I examined privately the five officers present when trouble occurred (Major Penrose, Captains Lyon and Macklin, Lieutenants Grier and Lawrason, all of Twenty-fifth Infantry), all men who made affidavits, etc., A' to F' (as well as post noncommissioned staff, a number of

old noncommissioned officers in each company, etc.), all important witnesses in A" to B", Mayor Combe, Mr. Dominguez, Mr. and Mrs. Evans, etc. I interviewed nearly all prominent officials—Federal, State, and county—saloon keepers, and other citizens of all classes. I examined the houses, interviewing inmates, of Messrs. Cowen, Randall, Starck, and Yturria, observing where shots entered and left; also saloon where bartender was killed and a number of other buildings having bullet marks.

What does General Garlington, Inspector-General of the Army, say?

It has been established, by careful investigation, beyond reasonable doubt that the firing into the houses of the citizens of Brownsville, while the inhabitants thereof were pursuing their peaceful vocation or sleeping, and by which one citizen was killed and the chief of police so seriously wounded that he lost an arm, was done by enlisted men of the Twenty-fifth Infantry belonging to the battalion stationed at Fort Brown.

The General Staff of the Army, in a paper prepared by Gen. Thomas H. Barry, takes the position that the soldiers committed this offense, and recommends that a court-martial shall try Major Penrose and Captain Macklin for neglect of duty in allowing it to be done.

Now, what about Captain Macklin? You will remember, at least, some Senators who have read the testimony will, that Macklin commands C Company, and that with one exception all of the men who had trouble with the citizens of Brownsville belonged to that company. What does Macklin think about it? Does he think the people of Brownsville committed the outrage? Does he believe that there was an organized riot in Brownsville by which women and children might be killed in order to secure the removal of the troops from that place? He does not believe it. Macklin has not made a report on this subject, so far as I am advised, but here is a statement by Gilchrist Stewart as to what Macklin thinks:

Captain Macklin [is] the only officer whom I found so intensely confident that the men knew about it and that the soldiers did the firing.

He is not only confident, but intensely so.

There has been a great deal said about a roll call after the shooting. Let us see about it. Here is the testimony of Captain Lyon, of the Twenty-fifth Infantry. He says:

The first sergeant with a lantern, and myself, went down the line and saw that every man was present—that is, that a man answered the name of every man.

The idea of testing the presence of conspirators by such a method as that, testing the presence of men who had committed a crime diabolical and inhuman; whether or not they would get somebody in the ranks to answer for them. That is Company D.

What does Lieutenant Grier, who commanded Company C that night and ordered the roll call of that company, say?

LIEUT. HARRY S. GRIER, TWENTY-FIFTH INFANTRY.

Q. Where were you on August 13, 1906, when the shooting commenced at Brownsville?—A. Asleep in my quarters.

Q. On what duty were you?—A. Post quartermaster and commissary; also acting post adjutant.

Q. Who were the first enlisted men that you saw?—A. Sergeant Harley, acting first sergeant Company C.

Q. Was this before the firing ceased or after?—A. Before the firing ceased.

Q. Do you remember any other particular name that you saw before the firing ceased?—A. No, sir; by the time I got over to the barracks the firing stopped. I met Sergeant Harley on the brick walk coming from the men's barracks to the officers' line about three-quarters of the way across the parade ground to the officers' line; that is, near the officers' line. I halted him, not knowing who it was (firing was still going on), and inquired who was there. Replied, "Sergeant Harley." I said, "Sergeant, what is the trouble over there?" He said, "The men say somebody in town is shooting up the barracks." I said to him, "If that is the case, what are you doing over here?" He said, "I am going to get the captain."

So here is Company C, in which were all the men but one who had trouble with the people of Brownsville, answering a roll call, such as it was, after the firing had ceased in the town.

There is something more about a roll call. I read from a paper filed in this case by Major Blocksom, dated December 6, 1906. He says:

Major Penrose says he thought the firing had all ceased when the rolls were called. (See p. 1 [94], sworn testimony, Colonel Lovering's report.) Captain Lyon's testimony plainly shows that the main shooting was over when rolls were called and that scattering shots afterwards came from frightened people in town shooting out of their windows. (See p. 3 [96], same sworn testimony.) Lieutenant Grier's statements (pp. 5 and 6 [p. 97], same testimony) and Acting First Sergeant Harley's (pp. 6 and 7 [p. 98]) plainly show that firing had entirely ceased before roll of C Company was called, and that the roll call itself was not at all accurate.

Not only that, but I want to ask if all the men, according to the roll call even, were accounted for. Major Blocksom also says in the paper referred to:

By consulting the list of men absent from company quarters (p. 2 [93] of Colonel Lovering's report) and the sworn testimony of the men themselves (on pages indicated), it will be seen that the following were absent from roll calls that night: Three in Brownsville on pass, one in Brownsville presumably without a pass, and from eight to ten at quartermaster corral, bakery, officers' quarters, and quarters in town—twelve to fourteen in all.

This is about as many men as some of the witnesses say engaged in this infamous assault upon the people of Brownsville.

Mr. President, what was done, in the next place, to verify the number of rifles that were there after the shooting? What was done to discover whether those rifles had been freshly discharged? This assault occurred at 12 o'clock on the night of the 13th. Let us see what precautions were taken:

Major Blocksom further says:

No rifles were examined for cleanliness before morning. (See Major Penrose's letter B, my report.)

Let us go further into reports that have been made upon this affair.

The consul of the United States at Matamoros, Mexico, has written a letter to the President, which is in this record, and from it I propose to read a paragraph:

Shots were also fired directly from the second story of the soldiers' quarters into the houses, facts substantiated beyond doubt by the character of the bullet holes and the angle of penetration. Mr. Cowen's house, referred to in the report, is not over 100 yards from the barracks, and all of the shooting—and it has been estimated that from 100 to 150 shots were fired—occurred within 250 yards of the garrison.

In this letter I want to call your attention to a few facts, not prominently developed in anything I have read, which show, almost conclusively, preconceived, concerted, and deliberate design and preparation on the part of every noncommissioned officer and enlisted man who was in the garrison at that time a malicious plot and agreement, which they happened to be able to carry out. Having been intimately associated with several Army officers who have been stationed here within the last few years, I am acquainted with the usual routine of garrison duty, as well as the geography of Fort Brown. The method of caring for arms is as follows: The noncommissioned officer in charge of quarters is in charge of the keys of the gun racks. No rifle can be taken out without his permission and his tour of duty is twenty-four hours. *The first shots were fired from the upper porch of the barracks to the left of the entrance to the post, proven by the facts as stated above, and further substantiated by the testimony of several civilians.*

The Attorney-General of the United States sent the assistant United States district attorney to Brownsville to look into this matter. What does he say?

The city of Brownsville, without doubt, has suffered a terrible and unreasonable attack by soldiers, who should have acted just the opposite in affording them protection, and they are righteously indignant.

Mr. President, I will now read an extract from an affidavit of Wilbur F. Dennett, which was sent to me recently, made on the 10th day of December, 1906. I will print it in full in the RECORD, but I wish to read a paragraph:

The State of Texas, County of Cameron:

Wilbur F. Dennett came before me personally, and, being by me first duly sworn, on his oath deposes and says that on the night of August 13, 1906, I was awakened by firing of guns, and I remarked to my wife that the soldiers were firing on the town from the upstairs gallery of the barracks. I live on the corner of Fourteenth and Adams streets, one block from the garrison. As soon as I got up I looked at my watch, and by my time it was 11.50 p. m. The firing was almost continuous, and was from twelve to fifteen minutes in duration. There were three bugle calls during the firing, but am not familiar with them and do not know which calls they were. The first bugle call was close after the firing had begun, then in a few minutes another one, then still another one some minutes later. There was firing for at least a minute or two after the last bugle call. I did not go out after the firing ceased. The next morning, August 14, a mass meeting of the people of Brownsville was held in the United States court-house; a committee was appointed to investigate the outrage. After the meeting, we, the committee, immediately with our mayor, Dr. F. J. Combe, and Capt. William Kelly, our chairman, proceeded to the Administration building, in Fort Brown, and met the commanding officer, Major Penrose, and two of his officers. Major Penrose stated that he had believed the firing had been from the town on the garrison when the mayor, Doctor Combe, had first interviewed him last night after the firing, but that this morning Doctor Combe had visited him again, and in the face of the evidence he (Doctor Combe) had shown him—shells, unexploded cartridges, clips, etc., which had been picked up in the streets and alleys of Brownsville and turned over to the mayor as evidence—he (Major Penrose) was convinced his negro soldiers had attacked Brownsville the night before. Our chairman, Mr. Kelly, asked him the question, "if he had made a personal examination of the barracks to see if there were any bullet holes in them from the town side?" He said "he had, and had found no evidence at all of shots having been fired at the barracks from the town side." "There was," he said, "only one broken pane of glass, and that looked as if it was broken by a piece of brick." After other questions had been asked Mr. Penrose, I asked him "if he had made a personal examination of the barracks and arms, etc., immediately after the firing last night." He replied, "No; I could not be everywhere." I then asked him "if personal examinations of the troops, arms, and barracks had been made last night by any of his commissioned officers." He referred the question to the two officers present, and they each replied that "they had not personally made such examination." I then asked him if his knowledge of what had transpired last night had not been entirely obtained from what was told him by noncommissioned officers and privates of his command. He replied, "Yes," and then again told us of how much he deplored the occurrence, and that he would sooner have lost his right arm than have had it happen, and promised us that he would use his best efforts to discover who the guilty men were. Afterwards I was present at most of the meetings of the committee and at the examination of most of the witnesses, and the examiner was always careful to ask the question if the witness had seen any shots fired toward the garrison, and the reply was always the witness had seen no shots fired toward the garrison. The night was obscure; the moon did not rise till toward morning; the town is poorly lighted with coal-oil lamps, but the alley between Elizabeth and Washington streets, up which the soldiers marched until

they arrived at the Miller Hotel—two blocks—is not lighted at all, and nobody was very anxious to look and find out the color of the men behind the guns, except a few who observed from places of security; but the guns used were the Springfield 1906 pattern, as proved by the empty shells, cartridges unexploded, bullets taken from bullet holes, and other evidence picked up by the police and others in the streets and alleys of Brownsville and turned over to the proper authorities as evidence. I will state that there was no prejudice, so far as I know, against the negro soldier by the people of Brownsville; that during my forty years' residence in this city negro soldiers had often been stationed here before, and from conversation with business people here they were preferred as more beneficial to the general trade of the town than the white soldiers; but from the time this battalion of the Twenty-fifth Infantry came here it was generally remarked by our town people how sullen, poorly dressed, slouchy, and generally showing very poor discipline. The men came out in town dirty, in their shirt sleeves, without blouses, and were generally the furthest removed from my conception of a soldier than I had ever seen, either in the Volunteer or Regular Army. I will state I have been, in politics, a lifelong Republican, and it was certainly a new experience for me to have to help defend our town from United States soldiers for more than a week until aid came from elsewhere, and that I slept at night, until the negro troops were gone, with loaded rifle and other arms at hand.

WILBUR F. DENNETT.

Sworn to and subscribed by Wilbur F. Dennett before me this the 10th day of December, A. D. 1906.

JNO. BARTLETT,
County Judge of Cameron County, Tex.

Mr. President, it has been suggested, and I believe the suggestion comes from a member of another body—from Ohio—that the fact that the grand jury of Cameron County, of which Brownsville is the county seat, found no indictment against these soldiers is evidence that the jury believed they were not guilty. I have here the charge of the district judge to the grand jury on this subject, which I will print in the Record, stopping only long enough now to say that he assumed, from a previous investigation, that the troops were the guilty parties, and he contented himself with urging the grand jury not to find bills against individuals from malice and vindictiveness, but only where the proof would warrant conviction of individuals by a trial jury.

Mr. President, instead of this grand jury incident showing that the soldiers were guiltless, it not only establishes that in the opinion of the jury and the district judge they were guilty, but it is an additional tribute to the fairness, to the justice, and to the forbearance of the people of Brownville under extraordinary provocation.

If they had been vindictive, if their hearts were filled with hate, they could have returned bills of indictment and probably convicted some men, if they sought to do so in such a manner as that. But they did not, and instead of being held up to the country as assassins it is an additional evidence of their self-restraint and remarkable forbearance.

But I go further. The testimony before the grand jury (and there was much of it) was taken in writing, sworn to, and signed by the witnesses for perpetuation. The same objection to it, therefore, can not be urged as has been urged to the testimony taken before the citizens' committee, and I will read two or three extracts from the testimony of witnesses before the grand jury. While I will only read extracts, I will print in the Record the whole testimony of each witness referred to. It seems there was an honest negro down there in that town to begin with. Here is what he says:

GRAND JURY ROOM, September 17, 1906.

William Henry, being duly sworn according to law, deposes and says: I live in Brownsville, Tex. I am working for Mr. McDewitt. On Saturday night before the shooting I was at saloon near the garrison fence, talking with several colored soldiers, who were there. I paid for my own beer; one of the soldiers treated me once. I heard the soldiers talking about getting even with a saloon uptown, and some man who had knocked a soldier down. I could not hear all they said, but I knew there was something wrong at the barroom. One of the men was Sergt. George Jackson, of Company B. He is the man who jumped the wire fence that evening while I was there and came to the barroom. If I am not mistaken, Corporal Madison was behind the bar, but I am not quite sure. Allison was behind the bar every time I went there. When they opened the barroom it was the day the soldiers had been paid off, and there was a big crowd both inside and outside the bar. Jackson is a great big black nigger; he is so black I call myself a white man alongside of him. He was one of the men who were cussing in the barroom. I could not make out right what they were saying, but I knew they were up to something. The man who told me to get out, they did not want any spy around there, was Allison, who is now in jail. This was after the shooting.

WM. HENRY.

Sworn to and subscribed before me this 17th day of September, 1906.
WM. VOLZ, Foreman Grand Jury.

GRAND JURY ROOM, September 8, 1906.

Jose Martinez, being duly sworn, says:

My name is Jose Martinez. I live in a cottage of Mr. Randall's at corner of alley back of E. Yturria's, in front of garrison wall. I was at home on night of August 13, 1906, the night of shooting. I was awake when shooting began, reading in front of door on garrison side. I first heard about five or six shots at once inside of garrison, between wall and quarters, right opposite my door. Then in about two or three minutes I heard men jumping wall into the street. They gathered in front of my door, and most of them, about twenty, came up alley; the others

may have gone toward Elizabeth street. I next saw the men in alley, opposite gate of my yard, next door to Cowen's. They had rifles in their hands. They started up alley shooting right along. I fell on the floor and did not go out. I heard them talking English. I know they were negro soldiers. I saw them and their uniforms. I could not hear what they said. There were about twenty in party going toward town, up by Cowen's. I do not know where the balance of party who jumped wall went. I think about thirty jumped wall.

JOSE MARTINEZ.

Subscribed and sworn to before me this September 8, 1906.

WM. VOLZ, Foreman Grand Jury.

Now, here is the testimony of this same witness, George W. Randall, who testified before the citizens' committee. I want to call particular attention to one paragraph in his testimony before the grand jury when he talks about a shot going through his house. He says:

GRAND JURY ROOM, September 6, 1906.

G. W. Randall, being duly sworn, says:

My name is G. W. Randall. I live over the Western Union Telegraph office in block 61, city of Brownsville, on the right hand coming out of garrison gate. House is about 34 feet from garrison gate. I was at home on night of August 13, 1906. I was awakened by the shooting. There were two shots fired before I got up and looked out of window. I judge they were pistol shots. The men I saw moving were inside of garrison wall, and the only shots that I saw as they left the weapons were pointed nearly up. It led me to believe that it was an alarm of fire. Firing continued, and I looked from one window and then another, looking for light from fire; seeing no light I went to front window looking over garrison gate, and I saw the men moving and heard some low talking, but could not distinguish what was said until one man spoke in a louder voice than they had been using, saying, "Now we go," or "Here we go," and they came over the fence, passed over the wall, about abreast of the place between my place and Yturria's. Then the shooting was up that alley toward Louis Cowen's house. After the reports got up the street pretty well there were two shots right in front of my house. Those were rifle shots. One of them came from Elizabeth street side near corner of my house, went about 2 feet over my head and through the ceiling and on out through the house. From the direction in which shot came and the course it took indicate that it was fired from the upper gallery at lower or river end of quarters nearest river. The reason I think so is because the ball took an almost direct course. My home is a two-story one, and the bullet entered it about 28 feet from ground and came out about 6 inches above where it entered after passing through a room 20 feet wide. The first men I saw were inside garrison between wall and middle quarters and going up toward alley between Yturria and my house. I think there were fifteen or twenty shots before the first bugle call. There were no men in sight. Everything was over before the assembly call was made and the officer came. As soon as the assembly call was made the men came right downstairs. I could hear the noise of their boots.

GEO. W. RANDALL.

Sworn to and subscribed before me this 6th day of September, 1906.

WM. VOLZ, Foreman Grand Jury.

Here is the testimony of this poor fellow, M. Y. Dominguez, who had his arm shot off. We have not had this testimony before. Let me read it:

GRAND JURY ROOM, September 21, 1906.

M. Y. Dominguez, being duly sworn according to law, deposes and says:

I live in Brownsville, Tex. I am lieutenant of police.

On Monday, the 13th of August, at about eight minutes before midnight, I was at the market, when I heard shots in the direction of the lower end of Washington street. I rode down Washington street, when I got to the corner of Dona Rosa Pecina I heard the shots in the alley near Louie Cowen's house. A moment later the soldiers approached the crossing of the alley of Fourteenth street. Then I returned back up Washington street, a few yards from the corner of Pecina. I dismounted and tightened the girth of my horse; mounted again and went to the lamp post at Bollack's corner. From there I rode up on Thirteenth street to the crossing of the alley back of Miller's Hotel. When I got near Miller's Hotel I saw two files of soldiers coming in the alley, one on the hotel side and one on Bollack's side, and one of them said: "Give 'em hell!" Then I cried out: "People, wake up, here are the negro soldiers." Then they fired a volley. I did not get hurt that time and kept on at a trot toward Elizabeth street. Then they came out of the alley and turned. One filed along the wall of Miller's Hotel and the other along the walk of Wells's office, and kept firing in the direction I was going. When I tried to turn up Elizabeth street I received a shot in my right arm and my horse staggered down. The horse fell on top of my left leg and then another volley came. The soldiers at this time were about 10 yards from the corner of the alley of Miller's Hotel. I got out from under the horse and saw the soldiers turn back to the alley. It was so dark that I could not recognize any of the soldiers, but I know that they were negro soldiers, both by their clothing and their voices. When I got out from under my horse I made my way, the best I could, to Putegnat's drug store. The shot splintered my right arm so that it had to be amputated. I saw plainly that they were soldiers when I was at the Pecina corner. While on my way to the drug store, when I was in front of Crisell's, I heard the shots in the alley back of the "Ruby Saloon."

M. Y. DOMINGUEZ.

Sworn to and subscribed before me this 21st day of September, 1906.

WM. VOLZ, Foreman Grand Jury.

Here is a man named Herbert Elkins who testified. I do not know him, but he is doubtless a good man. Let us see what he says:

GRAND JURY ROOM, September 12, 1906.

Herbert Elkins, being sworn, says:

My name is Herbert Elkins. On the night of August 13, 1906, I was in my room, but awoke when the shooting began. My room is room nearest alley, in second story Leahy Hotel, and immediately opposite Louis Cowen's house, on side street, I think Fourteenth. First shooting seemed to come from the garrison wall, just inside or outside, at Cowen's alley. There were about thirty or forty shots, more or less rapidly fired. It stopped for a few seconds and then began again. There were

more shots fired before they came up the alley. They came up the alley, and I saw them in alley just before they got to the corner of Fourteenth street and alley. They were running when they got to corner; two were in lead, about 25 feet ahead of main body; these two men gave the orders. When the two men got to corner one was a little ahead of the other, and he ran into a mudhole—muddy hole was about junction of alley and street. Shots were fired down alley before they got to corner. He jumped to corner back of Cowen's and got at door, and called to the other not to go there it was muddy, and to come over on that side. These two fired about three shots each toward the Cowen house. They both reloaded and fired toward Cowen's, again reloaded, started across Fourteenth and got nearly across on up alley, then stopped as if they didn't know what to do, and fired three or four more shots into Cowen's house. These two men then ran on up alley, and the others, about fifteen in number, not less than twelve, not more than twenty, followed them up alley toward Miller Hotel. They only fired about four or five shots after they left Cowen's and before they got to Miller's. After they got up the alley about Miller's and farther they fired a good many more shots. *I saw eight or ten soldiers run on back the way they came—I. e., down alley toward the wall. This was a few minutes, not over four or five, but time enough for Mrs. Seely to go on over and bring the Cowen family. I saw no firing by men on their way back. I heard the bugle calls just after the firing began, and before they came up alley. The first two calls were alike. A few seconds after I heard a different call, blown once; I heard roll call and voices. This was about twenty minutes before the shooting. Men that I saw had gotten back about ten minutes before the men had gone down from the barracks to the roll call. The men had on khaki pants, leggings, and blue shirts (light blue summer shirts). The two in front had on hats; the others were in a run, and I didn't notice if they had caps or hats. They were niggers. The two men in front were about 5 feet 6 inches in height, one a little heavier than the other. I saw the patrol come by, and on its way down, about one hour or one hour and one-half after the shooting. I saw no white men with them, but Dr. F. Combe was behind. They stopped in front of Sully's and talked. Doctor C. talked to Mrs. Seely. The patrol stood there. As they came down by Knoklaski's office the rear part of the company made out to come on sidewalk, but followed head of column around the tree. Then they did come on sidewalk—I. e., part of them. One of the company, whom I took to be one of the two leaders in shooting at Cowen's house, the one who was warned not to get into the mud, said: "We'll kill the rest of the white sons-of-bitches to-morrow." Some were laughing and talking. They seemed not to pay much attention to the officers. Mrs. Seely heard this. I think Doctor Combe had just left, going toward the post up toward the front of the company. Just a little after the first as the shooting began, and before the second shooting and before men left wall, I saw about two lights inside of quarters, second from river, and heard one or two men on downstairs porch toward town running. I saw one or two shots fired from upper story of second barracks from river, toward town generally.*

HERBERT ELKINS.

Sworn to and subscribed before me this 12th day of September, 1906.
WM. VOLZ, Foreman Grand Jury.

There was much other testimony before the grand jury, showing, among other things, that shells and bullets and clips were picked up in the streets, but I will simply place it in the RECORD:

GRAND JURY ROOM, September 8, 1906.

Grenaro Padron, being duly sworn, says:
I am city policeman. On the night of August 13, 1906, when the shooting began, I was on the corner of Merchants' National Bank, with Florencio Blseno, Mike Jagan, and M. Alonso, jr. I went down Elizabeth street and got pistol from Tillman, and went to Miller Hotel, on Thirteenth street, and on to Washington, and turned right down to Pecini's, corner of Washington and Fourteenth, and stood there. They were shooting then in alley at Cowen's. I saw them cross Fourteenth street from Cowen's to Lahay's. I saw the lieutenant of police coming down Washington on horseback. I met him and told him to get down, as he was a mark. He got down and tightened girth of horse. He remounted and we started up Washington, I ahead. On reaching Thirteenth met Macedonio Ramirez. We turned toward Elizabeth on Thirteenth. I told Dominguez not to try and cross alley, as soldiers were coming up alley shooting. Again I told him and grabbed his saddle. He paid no attention, but went ahead. I got in the dark near Huythnes's and got in doorway, and I then jumped into street, when I saw three soldiers in alley throw down on Dominguez. They fired, then I fired a shot and then fired another, and then I ran to corner. When I ran they cried: "Here the two more." I looked out and saw five or six, not less, come in my direction. I then went up Washington in direction of Finks, hiding myself in shade of trees. When I got to the last tree they turned corner and fired in my direction. Again, when they saw me they fired. I ran to corner of Sahuallio, and again they shot at me. This was the time they fired on Starck's home. There were not less than five or six, and they kept advancing and shooting. I ran to Eleventh street.

GRENARO PADRON.

Subscribed and sworn to before me 8th of September, 1906.

WM. VOLZ, Foreman Grand Jury.

Among those soldiers there was one who had on a white shirt. The shirt was outside of his trousers. He had no hat on. I saw his bare head. Right behind the three who first came out alley at Miller Hotel corner there were several others, and he was one of them. He was a man of stout build, medium height; a little taller than I, more or less.

GRENARO PADRON.

Subscribed and sworn to before me September 8, 1906.

WM. VOLZ, Foreman Grand Jury.

GRAND JURY ROOM, September 8, 1906.

C. H. Thorn, being duly sworn, says:
My name is C. H. Thorn. I live in block 62, street 9, city of Brownsville. I was at home and awake when the shooting began on the night of August 13, 1906. My bedroom is downstairs at rear of house, about 30 or 40 feet from alley. I was in bed, but not asleep, heard firing, and it kept getting nearer; it came from direction of garrison, evidently coming up alley. I started to put on my slippers and heard reports in alley opposite my house, right outside of window. Heard them talking and breathing heavily. I distinguished, very readily by their voices, that they were negroes, and one thing I remember, but not in exact words, it was either, "There he goes," or "There they go;" then another said twice, "Give 'em hell! Give 'em hell!"

God damn 'em!" in a lower voice and he fired. The others were already firing. All this time they were going on up alley. They went on by. The firing continued for about ten minutes up toward Twelfth street. I would think everything was over when I could hear more shots. These were also scattered shots, but I couldn't locate them. I found next morning that a bullet had gone through my privy and into the kitchen. It went through weatherboarding flat.

C. H. THORN.

Sworn and subscribed before me September 8, 1906.

WM. VOLZ, Foreman Grand Jury.
GRAND JURY ROOM, September 17, 1906.

F. E. Starck, being duly sworn according to law, deposes and says:
I live in Brownsville, on Washington street. On the night of Monday, the 13th of August, about 12.30 I was awakened by a volley being fired into my house. The bullets went into my bedroom in my children's bedroom. I jumped up out of bed and grabbed some of the children and took them to the back end of the house. I then came back, got my Winchester, and went to the front windows. I saw a man running behind the big ash trees in front of Mr. Turk's residence, opposite my home. When I got a bead on him I saw his police badge and recognized him as Policeman Genaro Padron. Almost at the same moment I heard a shot fired in the direction of Mr. Porter's residence (Carson), and I presume this is the shot which hit Mr. Turk's house. I did not see any soldiers. The shooting still continued near Miller's Hotel, and I heard a volley fired in the alley back of Turk's residence. Next morning Mayor Combe and myself found some empty cartridge shells in front of my house. They belonged to new Springfield rifle which the Army now uses. We picked up about ten or twelve shells scattered in a space of about 10 feet.

F. E. STARCK.

Sworn to and subscribed before me this 17th day of September, 1906.
WM. VOLZ, Foreman Grand Jury.

Mr. Starck states that Post Blacksmith W. H. Sharpe told him that he had repaired three gun racks at the barracks of Company C, which had been broken with axes at the order of Major Penrose, as the man in charge of the key was running around the barracks and refused to give up the keys. This conversation took place at the quartermaster's corral.

F. E. STARCK.

Sworn to and subscribed before me this 17th day of September, 1906.
WM. VOLZ, Foreman Grand Jury.

GRAND JURY ROOM, September 18, 1906.

W. H. Sharpe, being duly sworn according to law, deposes and says:
I live at Fort Brown. I am the post blacksmith. On the 14th of August, the day after the riot, I received verbal orders from the post quartermaster, Lieutenant Greer, through Q. M. Sgt. Roland Allsby, to repair four gun racks, which were brought to my shop. These racks belonged to Company C, as I heard, but I do not know so from my own personal knowledge. The staples which held the lock had been pulled out, and I replaced them. The piece of iron on which the staples are riveted is 2 inches wide, and one-fourth of an inch in thickness; it would require considerable force to break the staples out of the iron. The upper part of the racks, which hold the pistols, showed marks (gashes) as if made with an ax, but the locks had not been disturbed.

W. H. SHARPE.

Sworn to and subscribed before me this 18th September, 1906.

WM. VOLZ, Foreman Grand Jury.
GRAND JURY ROOM, September 8, 1906.

F. J. Combe, being duly sworn, says:
My name is F. J. Combe. I am a practicing physician; also mayor of the city of Brownsville, Tex. About 12 o'clock on the night of August 13, 1906, I was awakened by what I thought were four or five pistol shots, immediately followed by several rifle shots, which my military experience made me think were fired by high-power rifles. I was sleeping on my cot on the back gallery of my home downstairs, on corner of Elizabeth and Ninth streets. I hardly had time to get out of cot when I heard another volley of shots fired. I got into my trousers, picked up my pistol, called to my brother, Doctor Joe, saying, "I'm going down to stop that firing," or words to that effect. I had hardly gotten out of my side door when I was joined by my brother, and we ran down Elizabeth street. When we arrived opposite Putnam's pharmacy, I gave the signal for a policeman, and Gerard Padron, police officer, came running around the corner from Twelfth street, Merchants' National Bank. He was breathless, and said to me, "Mr. Mayor, don't go down there, you will be shot;" and I told him, "Come on." But before we got to the corner I found blood stains on the sidewalk, and I said to Doctor Joe, "Follow these stains and find out who has been hurt." I went on down the street, as far as Criffl's saloon, in the middle of next block. By that time Doctor Joe returned and said, "Joe Dominguez is shot in the right arm." The chief of police then came up and told me that two policemen were missing. We went on down the street to look for them. It was then that Doctor Joe and I found Joe Dominguez's dead horse, opposite Mr. Wreford's office, corner Elizabeth and Thirteenth streets. I then started to go into the post, but was requested by my brother and the police officers not to do so. I said to Doctor Joe, "Go to 'central' and call up Major Penrose at Fort Brown and tell him I want to speak to him." He started off, but returned in a few minutes with Captain Lyon and about sixty negro soldiers of his battalion. Doctor Joe had halted them on Twelfth street between Elizabeth and alley. Some of Captain Lyon's men in the rear, seeing one or two of my officers with rifles, started to break and go towards them, saying "Captain, these men have guns." I ran back, calling out "Let those men alone; they are officers." Captain Lyon ordered them back into the ranks. The men did so in a surly manner. Doctor Joe and I then went into the post with Captain Lyon. I met Major Penrose at the gate, and said to him, "Major, your men have fired on the town, killed one citizen, seriously wounded a peace officer, killed his horse, and generally shot up the town." He said, "Doctor Combe, I hardly believe that. I am told, on the contrary, that the citizens have been shooting on the garrison." We talked for probably fifteen or twenty minutes, when Captain Macklin, officer of the day, walked up, saluted the commanding officer and said, "I report, sir,—that was about 1 o'clock a. m. Major Penrose said in reply, 'Where have you been, Captain Macklin?' We have been looking everywhere for you." "Sir, I was in my quarters asleep," replied Macklin. Major Penrose said, "I have sent two men to your quarters and they reported that you were not there." Captain Macklin replied, "Yes, sir; I was in my quarters asleep." Major Penrose then ordered Captain Macklin to take charge of his company. (I neglected to state that when I met Captain

Lyon in town. He asked me, "Doctor, have you seen Captain Macklin? I am looking for him, and we feel that he has been gotten away with in town." I answered, "I don't think so; if so, we would have known it by this time." I then said to Major Penrose, "I am going back into town, and I warn you not to allow any officer or man of your command to go into the city, as I will not be responsible for their lives." On arriving at Mr. Wells's office, Elizabeth and Thirteenth, I was met by some one who said, "There's a dead man in the Ruby saloon." I went to the saloon, and a short while afterwards Mr. Garito, the justice of the peace, came and requested me to examine the body. I did so, and found that the dead man was Frank Duboisne, and that he was shot through the body by a high-power rifle, from which wound he died almost instantly. The body was lying in the courtyard of the Ruby saloon, near a cistern. I then went to corner of Miller Hotel alley, at the place where Lieutenant of Police Dominguez had told me he was fired upon, and while walking around there I stepped on some empty brass cartridge shells, which I picked up. Amongst them were the clip with two ball cartridges. These are in possession of the sheriff, for which I have his descriptive receipt. I first saw a soldier's cap in Wells's office a day or so afterwards. I understand Mr. Charlie Starck found it.

I was on the street nearly all night. At daybreak next morning I went to the scene of firing, and a bandolier, such as comes in the ammunition boxes, with an arsenal and issue number and date on it, was handed to me with some more empty shells by, I think, Mr. Houghton. I then went around on Washington street with Mr. Starck, who told me that his home had been fired on, and found quite a number of empty brass cartridge shells strewn along the street in front of his home. These shells were the regulation shells used by the Springfield rifle, now in use by the United States Army.

The first call, in my opinion, was sounded from three to five minutes after first shooting. I think it was "Call to arms."

FREDERICK J. COMBE, M. D.

Subscribed and sworn to before me this September 8, 1906.

WM. VOLZ, Foreman Grand Jury.

Now, Mr. President, remember that I am maintaining the single proposition just now that Federal soldiers and not citizens committed this crime at Brownsville. Against this testimony that they did so—the testimony of reputable and to a large degree disinterested witnesses, testimony which is clear, strong, direct, natural, and consistent with indisputable physical facts—what is there? Nothing save the alibi sworn to by all the accused, and their further testimony that not one of them know a single guilty party or has knowledge of any fact or circumstance indicating who the guilty are, which in itself, under the circumstances, is some evidence of concerted action on the part of the soldiers.

In addition, Mr. President, to the direct testimony, which I have hurriedly reviewed, the testimony of the soldiers to which I have just adverted is disproved or disbelieved by every official, civil or military, and every disinterested citizen from General Nettleton down, who has investigated the matter on the ground. It is disproved by the manifest want of malice and motive on the part of the citizens, and the existence of such malice and motive on the part of the soldiers. It is disproved by the fact that time enough elapsed after the shooting for the soldiers to return and answer the roll call, if, in truth, any satisfactory roll call was ever had. It is disproved by the fact that no immediate and satisfactory examination of the guns was had to determine whether all were there, or if there whether they had been freshly discharged. It is disproved by the direction of the firing, no bullets whatever having entered the garrison from any quarter. How well they protected themselves and their associates! It is disproved by the direction of the firing further, bullets having entered residences at such angles as to demonstrate that they were fired from the upper story of the garrison. It is disproved by the character of the bullets and shells and clips, being such as were uniformly used by the soldiers and not by citizens, rendering it utterly improbable, if not impossible, that other than soldiers could have committed this outrage.

In short, Mr. President, the testimony of the soldiers is unnatural, improbable, and inconsistent with facts which are admitted, or which are established by physical conditions incapable of distortion or falsehood.

It may be—probably it is true, Mr. President—that some of these soldiers did not actually participate as principals or as accessories either before or after the fact in this outrage, and it may be that some of them know of no fact or circumstance implicating the guilty parties. To the extent, sir, that may be true the discharge is a hardship; but from the necessity of the case, and as in the cases cited from the military records of General Grant and General Lee, it is a hardship which must be borne for the good of the service and the peace of communities where troops are stationed. Even this hardship will be mitigated, if not wholly removed, by the course suggested by the War Department—that all men of this battalion will be permitted to reenlist who absolutely purge themselves of guilt or guilty knowledge.

It may be, Mr. President, that the discussion of this matter on my part should rest here, but in a larger view other thoughts suggest themselves. From an early day in our national life and continuously since then the negro question has been the most dangerous problem that has confronted the American people.

In part, for more than half a century it bitterly estranged the sections of the Union and culminated in the destruction of the limbs or lives of nearly a million white men in the greatest civil conflict which the world has known. And that, too, Mr. President, when the condition of the black race, with its ages of slavery, its ignorance, its poverty, and its helplessness, excited, and now profoundly excites, the sympathy and compassion of the great body of white people in the South.

Notwithstanding all this, in spite of the past, with its conflicts and its sacrifices and its sorrows and its destruction of life and property, this problem is still the gravest with which we must deal. It involves labor, education, suffrage, social order, civil liberty, self-government, and the integrity of the white race. The end no man can see.

Southerners think deeply and profoundly of this race problem and its ultimate solution. Closing their eyes and looking down the ages different vistas rise. Sometimes the black race is deported. Sometimes the races continue to live here separately, as now, in comparative peace, one subordinate to the other. Sometimes they turn with unspeakable aversion from a blended and corrupted and inferior race. Sometimes there is war between the races—which may God avert—bloody, red-handed, vengeful war; war which seeks and can only end in the survival of the fittest.

In the midst of such awful possibilities human prophecy is idle, but we do know that the man or party who would create false hopes and add to the problem which will test the manhood, the patriotism, and the Christianity of the land deserves no place in the confidence or affections of the American people.

Speaking, Mr. President, in part for the people of Texas—and plainness of speech is best—it is not inappropriate to say that they have dealt fairly and generously with the negro in all essentials, in education, in charities, in helpful sympathies, and in the protection of life, liberty, and property. But I would not be candid with you if I did not say that in other respects their purposes are equally resolute and unalterable. They are opposed to political domination by the ignorant and the vicious; they are opposed to social equality with the negro, and they are opposed to every tendency which will ultimately be destructive of the purity and integrity of the white race. Above all this, however vital, there is that in the testimony in this case, and which to a degree underlies this trouble, which impels me to declare even in this great Chamber that they purpose to protect even with their lives what in their womankind "is the immediate jewel of her soul."

APPENDIX.

GRAND JURY.

[Judge Welch's charge on negro soldier outrage.]

And now, gentlemen of the grand jury, amongst the other responsible duties of your position is that of making a full, thorough, and complete investigation of the unprovoked, murderous midnight assault committed by the negro soldiers of the Twenty-fifth United States Infantry upon the citizens and homes of Brownsville on the night of the 13th of August. An inoffensive citizen was shot down and killed by them while closing his gate. An unwarranted and cowardly assault was made on the lieutenant of police of Brownsville and his arm shattered by their bullets, requiring its amputation. Fiendish malice and hate, showing hearts blacker than their skins, was evidenced by their firing of volley after volley from deadly rifles into and through the doors and windows of family residences, clearly with the brutish hope on their part of killing women and children, and thus make memorable their hatred of the white race. Hard words, these, but strictly true and warranted by uncontested facts.

It was my province to come amongst your patient people even while their terrible fears and horror of another outbreak were upon them, and God spare me in my life the sorrow of ever again witnessing the faces of agonized women and fear-stricken children, tensioned with days and nights of suffering and waiting for relief, with none coming from either nation or State to give them assurance that greater and unspeakable outrages were not to follow.

Tardy relief did come. At the eleventh hour the fiends who disgraced the uniforms they were permitted to wear and shamed a nation were removed. That all of the three companies were blamable must be conceded, for they knew who were guilty, and they shielded and sheltered them and failed to give them up. Hence it is that it has been left to the civil authorities of the State, and especially to this district court, to apprehend if possible those directly guilty of murder, assault to murder, and the ruffianly conspiracies to that end, as the authorities of the United States in charge have declared their inability to discover who were the uniformed thugs and murderers that committed the outrages.

You are the most important auxiliary of the court, its very right hand, and to you this matter must be relegated. I wish to say that the individuals against whom even the slightest evidence existed are under arrest and subject to such action as you, with due regard to your oaths and responsibility shall take. All the process and powers of this court, coextensive with the bounds of our State, are at your service to bring witnesses or other evidence before you, and you are to determine when a prima facie case of guilt is made and indict accordingly.

I know, gentlemen of the jury, that it takes a long time for blood to cool when it is raised to fever heat by such terrible outrages as your people have had to endure, but in this second test of their high moral courage you, as their special representatives, must be calm, wise, and just, and for the sake of the good name of your community you can not and must not indulge in a single thought of vengeance. You must present for trial before the courts of our State only those against whom

evidence is adduced sufficiently pertinent and strong to warrant conviction by a trial jury, and going beyond mere suspicion or even strong probability.

The lengthy investigation of a committee of your leading citizens, made while these outrages were fresh, is at your service. I also present to you three affidavits made before me by W. J. McDonald, captain of Company B of the ranger force of Texas, against twelve of the negro soldiers and one civilian, a negro exsoldier. All these parties are under arrest, and within the jurisdiction of the civil authorities of this State, and to await the action of our courts. Hence it is that if it has ever been known by committee, sheriff, State ranger, or other officer or individual who, if any, of these men are guilty, that knowledge should come to you, as the grand inquisitorial body that represents not only the county of Cameron, but the State of Texas. I have no hesitation in saying that I share in the universal belief that among those under arrest are many of the murderers, but something more than mere belief and opinion are required to vindicate the law. Evidence must be had upon which to predicate an indictment and warrant a trial. If you indict on mere suspicion or opinion and without evidence you leave our people and community open to the charge of injustice, and the proceedings will resolve themselves into mere delay, for in the end an indictment unsustained by evidence must be dismissed.

I am glad to state that our small criminal docket will give you opportunity to have with you in your investigation the counsel and experience of the district attorney. He has good red blood in his veins, and plenty of it, and will bring to your aid in serving the best interests of our people an integrity of purpose that can not be successfully impeached by any man. He is your legal adviser, but you are the keepers of your own consciences.

Remember that in the grave responsibility that comes to you, collectively and individually, your acts will be photographed to the nation, that through its press it has approved your high moral courage and patience and condemns the outrages on your people.

Do nothing to forfeit their righteous verdict of your worth.

[Official copy.]

HEADQUARTERS THIRTEENTH ARMY CORPS,
DEPARTMENT OF THE TENNESSEE,
La Grange, Tenn., November 16, 1862.

SPECIAL FIELD ORDER No. 6.

Until further orders no passes will be granted to any civilian to pass south of Wolf River, nor will any civilian be permitted to come within our lines from south of said river.

All passes heretofore granted inconsistent with this order are hereby revoked.

II. The facts having been officially reported to the major-general commanding that a portion of the Twentieth Regiment Illinois Infantry Volunteers did on the night of the 7th of November instant, at Jackson, Tenn., break into the store of G. W. Graham & Co. and take therefrom goods to the amount of \$841.40, the property of said Graham and Co., and did cut the tent of R. B. Kent and N. A. Bass and take therefrom goods to the value of \$345, the property of said Kent and Bass, and burn and destroy the tent and poles, also the property of said Kent and Bass, of the value of \$56.25, all of which damages amount to the sum of \$1,242.66, and it further appearing from said report that Capt. C. L. Page, Company D; Capt. I. M. North, Company E; Capt. G. W. Kennard, Company I; Lieuts. Harry King, Company B; William Seers, Company C; John Edmonston, Company E; David Wadsworth, Company I; I. Bailey, Company F; Victor H. Stevens, Company H; R. M. Evans, Company I; Charles Taylor, Company I, of said regiment, were absent from their commands at the time of the perpetration of these outrages, in violation of orders, and without proper cause, when they should have been present, and also that Capt. Orton Frisbie, of Company H, acting in capacity of major, and Capt. John Tunison, of Company G, the senior captain, immediately after the commission of these depredations did not exercise their authority to ferret out the men guilty of the offenses, but that on the contrary Captain Tunison interposed to prevent search and discovery of the parties really guilty, and that Captain Frisbie, after the commission of the said depredations, being in command of the regiment, remained behind twenty-four hours after the regiment marched, and the names of the individual parties guilty not having been disclosed, it is therefore ordered:

I. That the said sum of \$1,242.66 be assessed against said regiment and the officers hereinbefore named, excepting such enlisted men as were at the time sick in hospital or absent with proper authority; that the same be charged against them on the proper muster and pay rolls and the amount each is to pay noted opposite his name thereon, the officers to be assessed pro rata with the men on the amount of their pay proper and that the same so collected will be paid by the commanding officer of the regiment to the parties entitled to the same.

II. That Capt. Orton Frisbie and Capt. John Tunison, of the Twentieth Regiment Illinois Volunteer Infantry, for willful neglect of duty and violation of orders, are hereby mustered out of the service of the United States, to take effect this day.

By order of Brig. Gen. U. S. Grant.

[SEAL.]

JNO. A. RAWLINS,
Assistant Adjutant-General.

[The Charlotte Observer, November 29, 1906.]

PRECEDENT FOR PRESIDENT'S ACTION.

The Observer takes great pleasure in presenting below conclusive evidence that President Roosevelt's order disbanding three colored companies for an offense by some of their number is not, as has been claimed, without precedent in the military history of this country. It will be universally admitted that no higher authority than General Lee's on what is right and just in military discipline could possibly be offered. As for the authenticity of the evidence, all North Carolina will vouch in the most absolute manner for the truth of any statement sponsored by Colonel Burgwyn. And as Colonel Burgwyn says, the name of the command can be given if desired. His communication and the appended military order follows:

"I see it stated that President Roosevelt's order disbanding a battalion of colored troops is without precedent in the military history of this country. There are those now living who read the following order on dress parade and witnessed its execution. I omit the name of the command, but it can be given if desired:

"HEADQUARTERS ARMY OF NORTHERN VIRGINIA,
"October —, 1864.

"General Order No. —.

"The — Battalion, for cowardly conduct on every battlefield from Gettysburg to the present time, is unworthy of a place as an organization in the Army of Northern Virginia. It will be marched

to division headquarters Wednesday afternoon, at 4 o'clock, and surrender its colors and be marched to the rear in disgrace. The general commanding the Army of Northern Virginia regrets that there are some brave officers and men belonging to this organization who must share in this common disgrace, but the good of the service requires it, and they must bear it as brave soldiers.

"By command of

GEN. R. E. LEE.

"—, Assistant Adjutant-General."

"Yours, truly,

"WM. H. S. BURGWIN.

"WELDON, N. C., November 26."

It is here explicitly stated that "there are some brave officers and men belonging to this organization who must share in this common disgrace, but the good of the service requires it, and they must bear it as brave soldiers." In this case, as in the Brownsville affair, the offense was very grave, and the "good of the service" required that the innocent suffer disgrace with the guilty, since separation was impossible. That one offense occurred in time of war and the other in time of peace makes not the least difference in principle. The unsoldierly conduct punished by General Lee could not have occurred at all in time of peace, and the riot at Brownsville could not have given a tenth of the scandal had it occurred in time of war—to each its own guilt, but each equally meriting punishment.

The Observer has always earnestly and at times vehemently insisted upon equal and exact rights before the law for the colored man. Any injustice to him by the dominant race is hateful to it. But no more than the white man is he entitled to immunity from punishment on account of race. We hold that the three companies were justly discharged from the Army, and if they had been white troops it would have made not the slightest difference in our sight. Indeed, if they had been white, no one would ever have chipped at their discharge.

We commend Colonel Burgwyn's communication to the especial consideration of our highly esteemed contemporaries, the New York Sun and the New York Evening Post.

During the delivery of Mr. CULBERSON'S speech,

The VICE-PRESIDENT. The Senator from Texas will please suspend. The hour of 2 o'clock having arrived, the Chair lays before the Senate the unfinished business, which will be stated by the Secretary.

The SECRETARY. A bill (S. 5133) to promote the safety of employees and travelers upon railroads by limiting the hours of service of employees thereon.

Mr. LA FOLLETTE. I ask unanimous consent that the unfinished business may be temporarily laid aside.

The VICE-PRESIDENT. The Senator from Wisconsin asks unanimous consent that the unfinished business be laid aside temporarily. Without objection, it is so ordered. The Senator from Texas will proceed.

After the conclusion of Mr. CULBERSON'S speech,

Mr. FORAKER. I do not rise, Mr. President, for the purpose of engaging in a discussion of the race question. That question, as I have repeatedly said since this matter has been debated in the Senate, does not belong in the controversy we have been having. It belittles this question to introduce that subject. At another time, however, I may take occasion, if that question is to be thrust upon us, to make some remarks in answer to it; but for the present I pass that by.

Neither do I intend now, Mr. President, to discuss the question of the constitutional or legal power of the President to make the order he made discharging these troops. I do not propose to discuss that because some days ago, in response to the President's message, I made some remarks upon that subject, and because, in the second place, the resolution now before the Senate is simply a resolution directing the Committee on Military Affairs to make an investigation as to the facts in this case. When this resolution shall be adopted and the committee shall have made that investigation and shall have reported to the Senate, if it be in order, we can again discuss the question of constitutional and legal power, but for the present I pass that by for the reason indicated.

Neither do I propose at this time, Mr. President, to discuss the facts as disclosed by the testimony that has been sent to the Senate by the President, or the testimony that has just now been added by the Senator from Texas to what was sent us by the President.

I do not propose to discuss the facts at this time because this is not the time to try the case if we are to further investigate it. I discussed the competency of the testimony and the weight of it some days ago, because challenged to do so by statements found in the President's message, but only for the purpose of showing why, in my judgment, the testimony that had seemed sufficient to the President was not in fact sufficient.

I pass that by, therefore, until I know what the action of the Senate will be upon this resolution. If it be adopted, as I think it should be, and as I hope it will be, the investigation will follow, all the testimony will be brought before us in due time by the committee, and then we can discuss it and weigh it and determine what it establishes and what it does not establish.

My purpose in rising at this time, Mr. President, is not, therefore, to discuss any of the questions to which the Senator from Texas has addressed himself, but rather only to defend myself from the charge made by the Senator from Texas that in the remarks submitted to the Senate some days ago I reflected

on Captain McDonald, a distinguished acquaintance of his and a citizen of Brownsville, who met with commendation at the hands of Major Blocksom. The reference to my remarks submitted a few days ago just now made by the Senator from Texas is of such a character that one not being advised would conclude that I had disparaged the character of Captain McDonald. Not so, Mr. President. I called attention in the following language to Captain McDonald. Speaking of the report of Major Blocksom, in which he spoke of having met a number of the "sterling citizens of Brownsville," I proceeded as follows:

One man who seems to have won his admiration and excited it unduly was a Captain McDonald, who is described as a captain of Texas Rangers, whatever they may be, and he pays him this high compliment. Now, Mr. President, think of this going into an official report:

It is possible—

Says Major Blocksom—

It is possible McDonald might have fought the entire battalion with his four or five rangers were their obedience as blind as his obstinacy. It is said here he is so brave he would not hesitate to "charge hell with one bucket of water."

Then immediately he says:

I met many sterling people in Brownsville.

I was then interrupted by the Senator from Wisconsin [Mr. Spooner] to know what that adjective was, and I repeated it, "sterling," and remarked:

Captain McDonald is one of them. Like Ben Adhem, his "name led all the rest."

With that I quit Captain McDonald and did not refer to him again in the course of those remarks except to say later the following. I was speaking of my desire to have an investigation. I was speaking of my desire to secure for these discharged soldiers, who have been made to suffer so severely, an opportunity somewhere, some time, in some manner, a day in court, where they could confront their accusers and cross-examine their witnesses, and in this connection I said:

I want to see that gentleman who is "able to charge all hell with one bucket of water." I should like to cross-examine him, Mr. President.

That is all I said about him. I do not know why he should be offended, unless because I called him a gentleman. [Laughter.] But, Mr. President, I had no thought then of reflecting upon him. He was an entire stranger to me. The reference to him made by Major Blocksom was quite unusual. It does not seem to me unnatural that I should have made comment upon it. Since then, however, I have learned a great deal about Captain McDonald, and I want here and now, in view of the remarks of the Senator from Texas, and in view of some other things that have come to me, to pay proper tribute to Captain McDonald, to show what a brave, public-spirited man he is, and to put it into the Record, where it will live forever, for I assume our institutions will be perpetuated.

Mr. GALLINGER. It will never be read.

Mr. FORAKER. The Senator from New Hampshire suggests that it will never be read. I do not know. I think this will be read, but for fear it will not be read I will read it myself. I read from the Cincinnati Enquirer of a few days ago, in order that we may know who this gentleman is and what he is. I do not intend to comment upon him, but will give him just as his friends have given him in this article, just as he has caused himself, in what seems to be an inspired article, to appear before the American people. This article has a rather sensational headline and it makes some references to me, which I hope I will be excused for reading under the circumstances:

GLITTER IN McDONALD'S EYE—NOTED TEXAS RANGER, WHO PROBED NEGRO RIOTS, RESENTS ALLEGED SLURS OF SENATOR FORAKER—WALKING ARSENAL DESIRES TO MEET THE OHIOAN—PICTURESQUE WESTERNER "WOULD CHARGE HELL WITH A BUCKET OF WATER," SAYS MAJOR BLOCKSOM.

[Special dispatch to the Enquirer.]

AUSTIN, TEX., December 29.

Capt. Bill McDonald is willing to go to Washington to tell what he knows about the negro soldiers' riot at Brownsville before a Congressional investigating committee. He is anxious to go. He says that he wants to meet Senator J. B. Foraker, who, according to published dispatches, referred to him slurringly on the floor of the Senate the other day as "that Captain McDonald." Captain McDonald is the man mentioned in Major Blocksom's report on the Brownsville riot as the man who would "charge hell with a bucket of water."

Probably having no other use for the water. [Laughter.]

Captain McDonald does not say that he would make any trouble for Senator Foraker when he meets him—

What a relief that is to me [laughter]—

but the cold glitter in his steel-blue eyes when he refers to the Ohio Senator does not indicate that it would be an altogether pleasant meeting.

Captain McDonald is said to know more about the Brownsville affair than any of those who investigated it.

How natural therefore, Mr. President, that we should have an opportunity to examine him.

He was sent there by Governor Lanham as soon as it occurred, and spent some time making a personal inquiry into the trouble. As a

direct result of his research, twelve negro soldiers were arrested on the charge of being implicated in the shooting up of the town, in which one man was killed and another wounded.

These are the men selected by Captain McDonald and arrested upon his order as the men who, as the result of his investigation, were by him regarded as the guilty persons who had done the firing, and they are the same twelve men who were discharged by the grand jury, as we were advised by the Senator from Texas [Mr. Culbertson] in his remarks a moment ago, after they had taken a great deal of testimony, all the testimony presumably that Captain McDonald had before him when he directed these twelve men, as the guilty ones, to be arrested and taken before the grand jury.

Captain McDonald made a written report of his findings to Governor Lanham and to President Roosevelt.

I think we ought to have that.

BIG TEXAS RANGER.

Captain McDonald is the most noted peace officer in the Southwest. He has been commander of a company of Texas Rangers for nearly twenty years, and during that period he has experienced many thrilling encounters with desperate men. Only a few weeks ago he and three members of his company were riding along a road near Rio Grande City when they were fired upon by Mexicans in ambush. Captain McDonald and his men returned the fire in the darkness, being guided in their aim by the flashes of the guns of the attacking party. They killed four Mexicans and wounded others.

That is his account of that transaction. I have another account written by people who were not in sympathy with what Captain McDonald did on that occasion, which does not put quite so favorable a view upon it either as to the bravery of the man or as to the justification for the killing of four men and the wounding of five others. But that is not in order now. I mention it only that we may get thoroughly, or at least as thoroughly as we may be able to, acquainted with the gentleman who is vouched for by the Senator from Texas as truthful and honest, and as fearless and brave as he is truthful and honest. More of this:

Captain McDonald has killed a number of men while in the performance of his duty as an officer of the law. He is literally "shot to pieces," but he is still as lithe and active as a boy. He is never unarmed. Day and night he wears a big .45, and one of the latest improved automatic pistols. He sleeps with both these pistols by his side, whether in a hotel in town or in camp in some remote and dangerous locality of the border region. He says that he never knows when he may need them.

The article goes on at that same rate telling of a number of other difficulties and a number of other killings. I shall not take the time to read further, but I ask that it all may be printed in the Record where it can be read by anyone who may desire to read it.

The VICE-PRESIDENT. Without objection, the matter referred to will be printed in the Record.

The matter referred to is as follows:

LIFE ON THE FRONTIER.

Practically all of Captain McDonald's life has been spent upon the frontier. He trailed Indians and hunted buffalo upon the plains of Texas forty years ago. He has a record for coolness and bravery that is almost unequaled.

Ten years ago Captain McDonald had a pistol duel with Sheriff Joe Matthews, of Childress County, and two deputies at Quanah. He killed Sheriff Matthews and was himself wounded almost to death. The two men had trouble over who should have custody of a prisoner whom Captain McDonald had arrested in an adjoining county. Sheriff Matthews and two deputies came to Quanah with the avowed intention of killing McDonald. The latter heard of this threat and was prepared for trouble. Matthews and McDonald met upon the public square and both pulled their pistols. Matthews got in the first shot, the bullet going through McDonald's right lung. They were within ten feet of each other, but the force of the bullet and the terrible wound did not floor McDonald. He fired at Matthews, and the bullet struck a piece of plug tobacco and a thick notebook that shielded Matthew's heart. The two men fired the second shots simultaneously. Matthews was struck near the heart, and he fell to the ground unconscious. McDonald was hit in the right side, and the bullet ranged upward and came out at his neck. While Matthews and McDonald were having this duel the two deputies of Matthews were shooting at McDonald at close range, but all of their bullets went wild.

TENDED TO THE DEPUTIES.

When McDonald saw that he had killed Matthews, he turned his attention to the two deputies. He fired at them as they fled down the street and he then sank down unconscious. He was a long time recovering from the wounds he received.

Seven years ago John and George Humphries, two white farmers who lived in the "trans-cedar" country in the northeastern part of the State, were lynched one night by a party of unknown men. Governor Sayers sent Captain McDonald to the scene of the crime with instructions to discover, if possible, the guilty parties and to arrest them. Alone and unarmed Captain McDonald arrested twelve of the most desperate men of that community and was successful in establishing the guilt of all of them. They were sentenced to long terms of imprisonment. In hunting up evidence against these men he traveled about the country and visited them at their homes alone. He received a number of threats against his life, but he paid no attention to them.

It was through the individual efforts of Captain McDonald that the notorious Reese-Townsend feud, which caused many killings in Colorado and Bastrop counties, was broken up. On one occasion, when the members of these opposing factions, numbering more than 100 men, were drawn up in fighting array at Columbus, Captain McDonald walked up to them and ordered them to deliver over their arms to him. The crowd demurred at first, and he had to knock one of the more ob-

streperous objectors to his order down with a gun. He searched every member of both factions and took all of their guns and knives away from them. At another threatened outbreak of these same feudists a few months later at Bastrop he performed a similar service.

POE TO SMUGGLERS.

Captain McDonald has hunted down many desperate robbers and smugglers along the Rio Grande. He was also stationed in the Panhandle for several years, and it was through his active work that that part of the State was rid of the bands of cattle and horse thieves who formerly made it their rendezvous. He had many fights with these outlaws. He left the town of Quanah one day on the trail of a notorious criminal who was badly wanted in different parts of the State for murder and robbery. He followed the outlaw for more than 400 miles, stopping only an hour or two at a time to get a little sleep and give his horse its needed rest. He finally overtook his man in what was then known as "No Man's Land," which is now a part of Oklahoma. He found him in camp with four other men, who were also probably outlaws, but Captain McDonald did not recognize them. He was after this particular man, and he unhesitatingly dismounted at the camp and walked to where the men were sitting and told the fellow that he was his prisoner. Captain McDonald says that he expected every minute to be shot before he got away from that remote camp, but he was not molested as he forced his prisoner to mount a horse and ride away with him toward Texas.

Three or four years ago Captain McDonald had a fight with cattle thieves in the Panhandle. Three of them escaped, and he followed them alone for 300 miles, finally rounding them up near Norman, Okla., where he arrested them single-handed and placed them in jail.

These are only a few of the incidents in Captain McDonald's long career as a commander of the State rangers. They serve to show what kind of a man Senator FORAKER would have to deal with if he should meet him in Washington.

Mr. FORAKER. Mr. President, I have here another account of him. This is in the nature of an interview with him, and it comes from a newspaper, the reliability of which can not be questioned, I imagine, for it is taken from the Houston Post, of Texas, of the 24th of December, 1906. I read as follows:

RANGER CAPTAIN M'DONALD—HE IS PERFECTLY WILLING TO BE CROSS-EXAMINED BY FORAKER—STORY OF THE BROWNSVILLE RAID AND WHY MAJOR BLOCKSOM FORMED HIS OPINION—M'DONALD ACCUSED MAJOR PENROSE OF BEING AN ACCESSORY AFTER THE FACT TO THE BROWNSVILLE OUTRAGE—SOME THINGS THAT HAVE NOT HERETOFORE BEEN PUBLISHED.

Captain of Rangers William J. McDonald spent last night in Houston en route to Madisonville, where he has business that demands his attention. As usual, the captain is going "squirrel hunting." In other words, the captain's business is no one else's business. He doesn't talk much. He simply acts when the time comes.

"Foraker doesn't seem to know much about the Rangers of Texas, Captain," suggested the Post man last night at the Rice Hotel.

"What is that fellow jumping on me for, anyway? I haven't done anything to him. I could tell him who the Rangers are and what they are for, though. I could tell him that the Rangers are the fellows that bring the scoundrels and rascals that he is trying to defend to justice. When the Rangers get hold of them, and they generally get hold of them when they start after them—they may stand hitched. We had those negroes down there at Brownsville, and we were making them stand hitched. They would have been hitched yet if the matter had not assumed a new phase, over which we had no control. Now, I don't care to break into the limelight, but if Foraker is anxious to put questions to me concerning the Brownsville affair, I will not dodge the issue."

When Major Blocksom suggested that Captain McDonald "would charge hell with one bucket of water," there is no doubt but he meant just what he said. Foraker, however, seized upon this and used it with derision in his address. Major Blocksom had every reason to believe that Captain McDonald was not afraid of a whole regiment of soldiers. The captain's actions in Fort Brown before the officers and the soldiers demonstrated that he was able to take care of himself, even though many loaded guns were aimed at him.

Now follows the account:

HOW M'DONALD FOUND BROWNSVILLE.

The captain was in Dallas filling the position of sergeant-at-arms for the Democratic convention when the outrage was committed at Brownsville. It was ten days after this that he arrived in Brownsville, and he went to work at once.

I think that should be two days.

The whole populace was in a state of uproar. The soldiers on the inside of the fort were on guard with their firearms loaded, and feared lest the people of the city made an assault upon the fort, while the people of the city, wrought up to the pitch of desperation and ready to fight, nevertheless were in a state of fear lest the soldiers inside the fort should make another onslaught upon the town.

When Captain McDonald, with his trusted sergeant, McCanley, arrived they went quietly to work gathering evidence. They did not go directly to the fort, but finding an ex-soldier who knew something of the assault made by the negroes, got from him all he knew.

He was one of the twelve men caused to be arrested by Captain McDonald, who was afterwards acquitted by the grand jury.

The captain and his sergeant then went to the fort. On the way the citizens met them and warned them that they would never get back alive if they entered the fort; that the negro soldiers would kill them.

HOW HE TALKED TO THE NEGROES.

As they entered about twenty negroes leveled their guns at them and demanded that they halt. They did not halt, but kept moving toward the negro soldiers and their aimed guns. The captain was doing some talking meanwhile. He talked to them like he would talk to a negro, and told them what kind of stunts he would have them doing if they didn't put up their guns, and they put up their guns.

"I'm Captain McDonald, of the Texas Rangers. I've come down here to investigate you black scoundrels. If you make a move with those guns I'll show you how to make kinky fur fly. Where is Major Penrose?"

Involuntarily the hands of most of the negroes went to their hats.

There was a ring in the captain's voice that they did not mistake. That ring carried time backward in its flight more than forty years. It was not United States soldiers standing menacingly over a civilian. It was negroes—the old-time plantation negroes—in the presence of a southern gentleman.

"Yes, sir, cap'n; yes, sir. Majah Penrose he ovah dar in his house."

"One of you black scoundrels show me to him."

They all bent their bodies in a bow and all were ready. The captain selected the one for the service and the darkey led the way to where Major Penrose was in consultation with Major Blocksom and Captain Macklin.

WHEN BLOCKSOM FORMED HIS OPINION.

"I am Captain McDonald, of the Texas Rangers. The governor has sent me down here to investigate this outrage," is the manner in which Captain McDonald introduced himself to Major Penrose and the other officers. "What have you learned about this thing?"

"Absolutely nothing," answered Penrose.

"Nothing! Do you mean to tell me that you have investigated this matter and have learned nothing about it? How about Corporal Miller's connection with it?"

In connection with Corporal Miller, McDonald mentioned the names of other negroes. He had secured information from the ex-soldier and had gathered the names of many negroes who were mixed up in the affair, and he was able to talk in a manner which showed that he was familiar with the affair.

"Corporal Miller was not mixed up in this affair at all. He was at roll both at 8 o'clock and at 11 o'clock. I saw him, and Captain Macklin saw him."

"Have Corporal Miller brought in here, and let me question him, and I'll prove to you that you are mistaken."

Corporal Miller was brought in and the captain conducted the examination. Penrose and Blocksom would occasionally break in with a question, but the captain informed them that it was he that was conducting the examination; that they could ask him questions as to where he was last year or the year before, but they would have to postpone their questions until he got through with the negro; that he wanted to know where Miller was on the night of the shooting up of the town.

CORPORAL MILLER MADE ADMISSIONS.

They all got good, and Miller became very humble, and he admitted that he was not in the fort at either 8 o'clock or at 11 o'clock and that he did not return to the fort until about or after 12 o'clock on the night of the shooting up of the town. During this examination the negro had his cap off. Captain McDonald had his attention. It was to this civilian and not to his superior officers that he humbled himself. To the captain he was a negro; to Penrose, Blocksom, and Macklin his attitude was not even that of a soldier in the presence of his superiors. He had forgotten that he was a soldier. And he belched up things right along, and he got himself arrested for it, and the captain made the arrest.

Then they go on, Mr. President, with a half column more of it. I shall ask to have it all printed in the RECORD. I have read just enough to show the character of this man's knowledge of this affair and to show something of the character of the man himself. I did not intend, when I referred to him some days ago, to do him any injustice; but in view of the fact that he seems to think I have, and especially in view of the fact that my much esteemed colleague, the Senator from Texas, seems to think I have reflected upon him, I think it but due to Captain McDonald that these interviews with himself, which are apparently his own picture of himself, should be put in the RECORD, where all the Senate and all the country and all posterity may read them and know of this man, who is as fearless and brave as he is truthful and honest and who seems to have had much to do with the preparation of this case.

The VICE-PRESIDENT. The matter referred to by the Senator from Ohio will be printed in the RECORD, in the absence of objection.

The matter referred to is as follows:

Captain McDonald arrested thirteen negroes on warrants issued from the State courts. Major Penrose told him that seven or eight of the negroes under arrest were the right ones, but that he was mistaken about the others.

ACCUSED PENROSE OF BEING AN ACCESSORY.

"If you know that much about this thing, how is it that you do not know all about it and who were connected with it? Why don't you assist me in bringing the guilty scoundrels to justice?"

And right there Captain McDonald threw it into the teeth of Major Penrose that he was an accessory to the crime.

Major Blocksom heard it and there isn't much wonder that he is of the opinion that Captain McDonald, of the Rangers of Texas, "would charge hell with one bucket of water."

But this is not all that Major Blocksom saw of the captain that firmly fixed this in his mind. During the time that the thirteen negro soldiers were locked up in the guardhouse the wires were kept hot. The order to move the troops came. Captain McDonald had the warrants in his pocket and the negroes were in the guardhouse inside the fort. He could not place them in the county jail. At least he deemed that the temper of the people made it advisable that the negroes be kept locked up inside the fort. The officers of Brownsville had allied themselves with Major Penrose and against McDonald. They demanded that he give over the warrants which he had in his possession. He still refused. The demand was made upon the order of the court, and officers went to him as officers and made the demand and fortified themselves, as officers do under such circumstances, back of their guns. It was no use. The captain had the warrants. He was ready for any test, and he stood them off. Meanwhile he had asked the governor for instructions. The message came back:

"Cooperate with the officers of Brownsville."

FORCED COMPANY OF TROOPS BACK TO FORT.

Meantime the troops were on the move. A company was taken to the depot. Captain McDonald and his trusted sergeant went down to the depot to see if any of the negroes for whom he had warrants were among those being taken away. They did not have any of his negroes, so he and his sergeant started toward the fort. They met a company of negroes coming up. They were on the way to the depot to be removed

to San Antonio. Among them were some of the negroes that McDonald had arrested.

"Take them negroes back to that fort and lock them up; they are my prisoners. I'll show you people some things. I know just where I am at in this matter, and if you people attempt to take those negroes another step toward that depot we'll get busy."

The negroes were "righted about" and taken to the fort, and those that McDonald had warrants in his pocket for were locked up again. The governor's message had arrived by this time, but McDonald did not deliver up his warrants until the next morning, and then the negroes were placed on board a train and scooted out of Brownsville.

INFLUENCE ON THE NEGRO.

During their contact with McDonald they had become negroes again, all of them. They had become subdued, notwithstanding they had made the threat that one company of the Twenty-fifth was not afraid to charge the whole State of Texas, and as the captain passed among them at the fort their hands went to the caps and they bowed in respectful manner. The influence of the captain remained with them until they were many miles away from Brownsville. A gentleman who was on the train which took the negroes away from Brownsville states that they were meek and that not a word did any soldier speak until Brownsville was 20 or more miles behind them. They then showed signs of boastfulness again.

FORAKER might have misinterpreted the meaning of Major Blocksom, but when Blocksom gave expression to his now famous epigram, he felt that way about it.

Captain McDonald has written several reports of the Brownsville affair, giving the inside of the whole thing. He has written a report to Governor Lanham and a report to President Roosevelt, and upon instructions from Governor Lanham has written a report to Senator CULBERSON.

HAS GIVEN ROOSEVELT INFORMATION.

He has also written a letter to the President congratulating him upon his action in disbanding the negro soldiers. In this letter he told the President some things that the President did not know before.

Just what these things were is another story. At any rate President Roosevelt has ordered a court-martial of Major Penrose and Captain Macklin. Just where Captain Macklin was on the night of the murder is an unknown quantity. He averred that he saw Corporal Miller at roll both at 8 o'clock and at 11 o'clock. It transpires, however, that he will have a hard time proving that he himself was there.

THE CAPTAIN WHEN NOT IN ACTION.

This man, Captain McDonald, is a little bit of a fellow. One can almost span his waist with two hands. He is not to say abbreviated of stature, but he is by no means tall, and he is very frail. He is mild of manner and unassuming and as docile as a lamb, and his eye is kindly and twinkles with a smile. He is as plain as an old shoe, and no one to meet him on the street would take him to be a "bad man." But this is the Captain McDonald when not in action. Major Blocksom, it seems, can best tell what the man looks like when he is in action, and should FORAKER ever come in contact with him during such a time it would not be in a derisive way that he would say that he was one of those fellows who "would charge hell with a bucket of water."

Mr. FORAKER. I now ask for a vote on the resolution, Mr. President.

Mr. LODGE obtained the floor.

Mr. CULBERSON. Will the Senator from Massachusetts yield to me?

The VICE-PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Texas?

Mr. LODGE. Certainly.

Mr. CULBERSON. Mr. President, it was not my pleasure to hear all the remarks of the Senator from Ohio [Mr. FORAKER] who has just taken his seat, but from what I can learn of his remarks I think the country is to be felicitated upon the fact that he has now turned his attention from attempting to establish the innocence of the guilty persons to a species of ridicule of the captain of the Texas Rangers. From what I caught, what the Senator has read seems to be merely an effusion of some newspaper reporter in Texas, I believe, and some representative of the Cincinnati Enquirer, as to the character of man Captain McDonald is—of course, purposely exaggerated.

There is one thing else I ought to add to what I have said about Captain McDonald, and that is this: In view of the wish expressed in this Chamber a few days ago—but which has been omitted from the RECORD—to meet him, it affords me very much pleasure to say, in the same spirit, that he never declined an invitation of that character in all his life, and he is too old to change his habits now.

Mr. LODGE. Mr. President, I offer to the resolution the amendment which I send to the desk.

The VICE-PRESIDENT. The amendment proposed by the Senator from Massachusetts to the resolution will be stated.

The SECRETARY. After the word "discharge" it is proposed to insert "by the President of the United States in the exercise of his constitutional and legal authority as Commander in Chief."

Mr. LODGE. Mr. President, as a member of the Committee on Military Affairs, which will be charged with the proposed investigation and with hearing the testimony, I think it would be very unbecoming in me to form any final opinion as to the question of fact which has been raised, and certainly most improper for me to express any opinion in regard to it. The question of fact is all that is covered by the resolution of the Senator from Ohio [Mr. FORAKER], and I hope that resolution will pass at the earliest moment, and that the committee will take it up and

press their hearings to a conclusion. But until they have heard all the testimony, as a member of the committee I think it would be, as I have said, unfitting for me to discuss the question of fact.

But the question of law is an entirely different one. That question was opened up by the Senator from Ohio the first day he spoke. It has been discussed again to-day by the Senator from Texas [Mr. CULBERSON]. While it would be an impropriety for me to form or express an opinion as to the facts, I can see no possible objection to myself or any other Senator, whether a member of the committee or not, expressing an opinion as to the question of law. I have given some study to it during the recess, and I have no doubt whatever as to the President's constitutional and legal authority to issue the order which he did discharging the soldiers. Whether the facts justified that order is a wholly different question, and that is the question which the resolution refers to the committee for decision; but as the legal and constitutional question has been raised, I think it would be just as well for the Senate to pass upon that question and remove it entirely from the jurisdiction of the committee, confining them, as the resolution purports to confine them, to the question of fact.

It is for this reason that I have moved the amendment which I have sent to the desk.

Mr. FORAKER. Mr. President, I am opposed to the adoption of the amendment. That is a question as to which the Senate should not estop itself from giving further consideration. It is a very important question. It is true I made some remarks upon that point when I spoke a few days ago, and it is true that the Senator from Texas [Mr. CULBERSON] discussed that proposition to-day; but the discussion of the Senator from Texas and the discussion I indulged in are enough in themselves to show that it is at least a controverted proposition.

The Senator from Massachusetts [Mr. LODGE] says that he has no doubt about the President's authority. I have no doubt either as to the view I have expressed. It is a matter which, it seems to me, ought not to be acted upon in connection with the resolution providing for an investigation of the facts. Let us confine the resolution to its purpose, namely, to investigate the facts, and then, when we have all the facts, we can consider not only the law applicable to the state of facts we may report, but also all the law applicable to the case as it is insisted by others it has already been established. So I hope the amendment will be voted down.

Mr. BEVERIDGE. I ask before action is taken that the original resolution of the Senator from Ohio [Mr. FORAKER] and the amendment proposed by the Senator from Massachusetts [Mr. LODGE] be read.

The VICE-PRESIDENT. The Secretary will read the resolution of the Senator from Ohio as it is proposed to be amended by the Senator from Massachusetts.

The Secretary read the resolution as proposed to be amended, as follows:

Resolved, That the Committee on Military Affairs be, and hereby is, authorized to take such further testimony as may be necessary to establish the facts connected with the discharge, by the President of the United States in the exercise of his constitutional and legal authority as Commander in Chief, of members of Companies B, C, and D, Twenty-fifth United States Infantry, and that it be, and hereby is, authorized to send for persons and papers and administer oaths, and report thereon, by bill or otherwise.

Mr. LODGE. Mr. President, the Senator from Ohio says very justly that his resolution deals only with the facts. It is for that purpose—to confine the committee entirely to the facts—that I have offered the amendment. I think the Senate will have to pass upon the question of constitutionality, as it has been raised, and it seems to me they can pass on it just as well at one time as another.

Mr. WARREN. Mr. President—

The VICE-PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Wyoming?

Mr. LODGE. I yield.

Mr. WARREN. I do not wish to take the Senator from Massachusetts from the floor, but now or at the conclusion of his remarks I wish to ask unanimous consent that the resolution of the Senator from Ohio and the amendment to it proposed by the Senator from Massachusetts lie over until to-morrow or until our next meeting, allowing it to keep its place until it comes up in regular order after morning business.

Mr. FORAKER. I object.

The VICE-PRESIDENT. Objection is made.

Mr. LODGE. Mr. President, I am very anxious to have this resolution disposed of as soon as possible. I should like to be heard briefly upon my amendment. I am suffering to-day from a cold and a somewhat sore throat, and it is extremely difficult for me to go on this afternoon—

Mr. FORAKER. In view of that statement, I withdraw the objection.

Mr. LODGE. But if the Senator from Ohio insists, I will go on.

Mr. FORAKER. In view of the statement of the Senator from Massachusetts—I did not know that the request was made by the Senator from Wyoming [Mr. WARREN] on account of the Senator from Massachusetts—I withdraw my objection.

Mr. LODGE. I did not ask the Senator from Wyoming to make the request; he made it entirely upon his own motion. I was about to make the request when the Senator from Wyoming took the floor. But it would be a great convenience to me if this matter could go over until Monday, because, as I say, it is only with difficulty that I can speak, owing to the extreme hoarseness from which I am suffering.

Mr. FORAKER. Mr. President, in the event the resolution goes over, what will be its parliamentary status?

Mr. HALE. Let it be understood, Mr. President, that the resolution comes up at the end of the routine morning business, as it did to-day, and is before the Senate. If that is the understanding, I shall move that when the Senate adjourns to-day it be to meet on Monday next.

The VICE-PRESIDENT. Is there objection to the request?

Mr. McCUMBER. I should like to ask the Senator to indulge me just one remark before he makes that motion.

The VICE-PRESIDENT. Does the Senator from Maine yield to the Senator from North Dakota?

Mr. HALE. Certainly; I yield.

Mr. McCUMBER. Mr. President, we have just had a recess of nearly two weeks. There is considerable business that should be accomplished by the Senate before we adjourn on March 3. In a very short time we will have the appropriation bills before us, and they will have the right of way to the exclusion of nearly everything else.

Some days ago I gave notice that I would call up the pension bill to-day; but at the request of Senators who wished to debate to-day the Brownsville matter I gave way, giving notice at the time that I would call up the bill to-morrow morning immediately after the routine morning business. It seems to me almost wholly unnecessary to have us here for just one day for a couple of hours after a two weeks' recess and then immediately adjourn for three more days. We ought to have time at this session of Congress to consider something else besides the Brownsville affair and the appropriation bills. I should very much appreciate it if the Senate would adjourn only until to-morrow and take an hour or two in the forenoon to consider other bills than appropriation bills.

I should like to bring up the pension bill to which I have referred. I do not object to the Brownsville matter taking its place on Monday. There has been, I think, no notice given for Tuesday, but the time will be so short that, unless we can take up the pension bill during the early part of the session before the appropriation bills come before us, we can not take it up at all.

Mr. HALE. Mr. President, I would not interpose a motion that when the Senate adjourns to-day it be to meet on Monday next if I believed that any legislative business would be done in the meantime. Senators have been away, and a great many of them are not here now. If we have a session to-morrow nothing will be done about the subject-matter that has occupied the Senate to-day, and nothing will be done upon the measure which the Senator from North Dakota [Mr. McCUMBER] has in hand and at heart, except perhaps some debate, and then the matter will go over. For one, I am entirely willing to come here to-morrow and spend an hour or two in listening to debate on the pension bill, but there will be no action upon it; there will be no action upon anything; it will simply occupy so much time. But I leave all that to the Senate.

First, I ask, Mr. President, that the resolution in regard to the Brownsville affair go over, retaining its place, to be considered when the Senate next meets, at the end of the routine morning business, in order that Senators who desire to be heard can be heard upon that, and in order, as no reference has yet been made, that the Senate may at an early day pass upon the main question, which is, Shall the resolution be referred to the committee?

The VICE-PRESIDENT. The Senator from Maine asks unanimous consent that, at the end of the routine morning business on the next legislative day, the resolution respecting the Brownsville matter be laid before the Senate. Is there objection to the request? The Chair hears none, and it is so ordered.

Mr. HALE obtained the floor.

Mr. CARTER. Mr. President—

The VICE-PRESIDENT. Does the Senator from Maine yield to the Senator from Montana?

Mr. HALE. Yes.

Mr. CARTER. I should be glad to have the Senator prefer a request that the resolution, together with the amendment, be printed.

Mr. HALE. That will of course be done.

Mr. CARTER. I presume the amendment has been offered separately. I should like to see the resolution and the amendment printed together.

The VICE-PRESIDENT. Without objection, the resolution will be printed with the amendments noted in the proper connection.

Mr. McCUMBER. Mr. President—

The VICE-PRESIDENT. Does the Senator from Maine yield to the Senator from North Dakota?

Mr. HALE. I yield to the Senator from North Dakota.

Mr. McCUMBER. I wish to ask, Mr. President, if any notice has been given as to taking up any subject next Tuesday morning?

Mr. HALE. I should like to say right here that there seems to have grown up a belief—

Mr. McCUMBER. I ask for information—

Mr. HALE. That because a Senator gives notice, he can therefore bring up a bill. There is nothing in the history of the Senate, there is nothing in the precedents, which sustains that idea. I get no additional advantage by notifying that next Wednesday or a week from next Wednesday or two weeks from next Wednesday I will call up a bill. It ought not to be journalized. The clerks have fallen into a fashion, if a Senator announces that he proposes to make a speech on a certain day next week, and he either wants to bring all his friends here or wants to keep them away, of journalizing the notice. The clerks have no right to do that. It is not a part of the proceedings of the Senate. Giving notice that on a certain day a Senator will call up a bill expresses nothing except how the Senator's mind is working, and that he is going to try it at that time. It adds nothing to the privileges of a Senator, and does nothing in the way of obstructing the business of the Senate. I do not object to the Senator from North Dakota giving his notice.

Mr. McCUMBER. Mr. President, during the time I have been here this custom has been almost universal in the Senate. It is a custom which has worked to the advantage of the Senate in the dispatch of business, inasmuch as it makes it possible for us to know beforehand what subject is liable to be called up at a given time. Most Senators have conceded that right, and have fallen in with it. I know, as the Senator from Maine has already expressed it, that it carries no particular right with it, except a right which has been granted as a matter of courtesy.

I desired to have the Senate take up the bill to-day. I desire to have it taken up some other day, if it can not be taken up at this time, and I desire to have it understood that I should like to have it taken up at some time when it will be most convenient for other Senators who have other measures which they wish to have considered. That is the only object of giving notice, and with that object in view very much good can be accomplished.

Mr. HALE. The Senator is quite right. Let him give his notice that he will try to get up his bill, and I will try to help him.

Mr. McCUMBER. Before I give the notice I should like to have the information which I sought to obtain.

The VICE-PRESIDENT. The Chair ascertains from an examination of the record of to-day that the Senator from North Carolina [Mr. OVERMAN] gave notice that on Tuesday next, after the close of the routine morning business, he would call up Senate resolution No. 200 for the purpose of making some remarks thereon.

Mr. McCUMBER. The very fact that the Senator from North Carolina has given that notice induces me to refrain from giving notice for Tuesday in order that the Senator may have the time he wishes. It is but proper that he should have the time when he has given notice that he wishes to speak, as that will undoubtedly be most convenient for him.

That being the case, I should like to give notice that I will call up the pension bill for consideration, not for final vote, after the routine morning business next Wednesday.

ADJOURNMENT TO MONDAY.

Mr. HALE. I move that when the Senate adjourns to-day, it be to meet on Monday next.

The motion was agreed to.

EXECUTIVE SESSION.

Mr. HALE. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After five minutes spent

In executive session the doors were reopened, and (at 2 o'clock and 55 minutes p. m.) the Senate adjourned until Monday, January 7, 1907, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate January 3, 1907.

SURVEYOR OF CUSTOMS.

Marcellus O. Markham, of Georgia, to be surveyor of customs for the port of Atlanta, in the State of Georgia. (Reappointment.)

COLLECTORS OF CUSTOMS.

George L. Smith, of New Jersey, to be collector of customs for the district of Newark, in the State of New Jersey. (Reappointment.)

Daniel W. Patrick, of North Carolina, to be collector of customs for the district of Pamlico, in the State of North Carolina. (Reappointment.)

Morton Tower, of Oregon, to be collector of customs for the southern district, in the State of Oregon. (Reappointment.)

PROMOTIONS IN REVENUE-CUTTER SERVICE.

First Lieut. Preston Henry Uberroth to be a captain in the Revenue-Cutter Service of the United States, to rank as such from December 25, 1906, in place of Walter Spooner Howland, retired.

Second Lieut. Henry Ulke, jr., to be a first lieutenant in the Revenue-Cutter Service of the United States, to rank as such from December 25, 1906, in place of Preston Henry Uberroth, promoted.

Third Lieut. Ralph Waldo Dempwolf to be a second lieutenant in the Revenue-Cutter Service of the United States, to rank as such from October 1, 1906, in place of Second Lieut. Ernest Eugene Mead, promoted.

Third Lieut. Roger Chew Weightman to be a second lieutenant in the Revenue-Cutter Service of the United States, to rank as such from November 4, 1906, in place of Second Lieut. Henry Granville Fisher, promoted.

PROMOTION IN PUBLIC HEALTH AND MARINE-HOSPITAL SERVICE.

Asst. Surg. John S. Boggess to be a passed assistant surgeon in the Public Health and Marine-Hospital Service of the United States, to rank as such from December 5, 1906.

ASSISTANT TREASURER.

Edwin Upton Curtis, of Massachusetts, to be assistant treasurer of the United States at Boston, Mass., in place of George A. Marden, deceased.

ASSISTANT ATTORNEY-GENERAL.

Edward T. Sanford, of Tennessee, to be Assistant Attorney-General in place of James C. McReynolds, resigned.

UNITED STATES MARSHAL.

William H. Mackey, jr., of Kansas, to be United States marshal for the district of Kansas. A reappointment, his term having expired on December 8, 1906.

APPOINTMENT IN THE ARMY.

General officer.

Brig. Gen. J. Franklin Bell to be major-general from January 3, 1907, vice Lee, retired from active service.

PROMOTIONS IN THE ARMY.

CAVALRY ARM.

To be captain.

First Lieut. Guy S. Norvell, Eighth Cavalry, from October 2, 1906, vice Carleton, Thirteenth Cavalry, promoted.

To be first lieutenants.

Second Lieut. Guy Kent, First Cavalry, from August 2, 1906, vice Odell, Eleventh Cavalry, resigned.

Second Lieut. Copley Enos, First Cavalry, from August 10, 1906, vice Karnes, Sixth Cavalry, resigned.

Second Lieut. Emory J. Pike, Second Cavalry, from August 20, 1906, vice Whitside, Fifteenth Cavalry, promoted.

Second Lieut. Williams S. Martin, Fourth Cavalry, from September 13, 1906, vice Purviance, Fourth Cavalry, promoted.

Second Lieut. Frank E. Sidman, Eighth Cavalry, from September 13, 1906, vice Johnson, Second Cavalry, promoted.

Second Lieut. Frederick Mears, Fifth Cavalry, from September 20, 1906, vice Cushman, Eleventh Cavalry, promoted.

Second Lieut. Alden M. Graham, First Cavalry, from October 1, 1906, vice Tilford, First Cavalry, promoted.

ARTILLERY CORPS.

To be first lieutenant.

Second Lieut. Norris Stayton, Artillery Corps, from December 21, 1906, vice Mitchell, retired from active service.

PROMOTIONS IN THE PORTO RICO PROVISIONAL REGIMENT OF INFANTRY.

Second Lieut. Teofilo Marxuach, Porto Rico Provisional Regiment of Infantry, to be first lieutenant from November 20, 1906, vice Woodruff, promoted.

Second Lieut. Eugenio C. de Hostos, Porto Rico Provisional Regiment of Infantry, to be first lieutenant from November 20, 1906, vice Angel, promoted.

PROMOTIONS IN THE NAVY.

Professor of Mathematics Lucien F. Prud'homme, United States Navy, retired, with the rank of commander, to be a professor of mathematics on the retired list of officers of the Navy, with the rank of captain, from the 29th day of June, 1906, in accordance with a provision contained in the naval appropriation act approved on that date.

Gunner Cornelius Cronin, United States Navy, retired, to be a chief gunner on the retired list of the Navy, to rank with but after ensign, from the 29th day of June, 1906, in accordance with the provisions of the naval appropriation act approved on that date.

PENSION AGENT.

John R. King, of Maryland, to be pension agent at Washington, D. C., his term having expired. (Reappointment.)

HOUSE OF REPRESENTATIVES.

THURSDAY, January 3, 1907.

The House met at 12 o'clock noon.

The Chaplain, Rev. HENRY N. COUDEN, D. D., offered the following prayer:

Infinite Spirit, our God and our Father, whose blessings are new every morning and fresh every evening, we lift up our hearts in gratitude to Thee for the care Thou hast exercised over us as individuals and as a nation in the past, and we pray that Thou wilt continue the same. We thank Thee for the holiday season which has come and gone with its lessons of love, peace, and good will. Grant that they may remain with us that we may be the better prepared to prosecute the work of the new year, and grant, oh, most merciful Father, that the laws enacted by these, Thy servants, may lessen the evils in the world and promote the good. Through Jesus Christ our Lord, Amen.

The Journal of the proceedings of Thursday, December 20, 1906, was read and approved.

SWEARING IN OF MEMBERS.

Mr. NEEDHAM. Mr. Speaker, the Hon. William F. Englebright, who has been elected as the successor of Hon. J. N. Gillett, resigned, is present, and I ask that his credentials be read and that he be sworn in.

The SPEAKER. The Clerk will read the credentials.

The credentials were read.

Mr. GILLETT. Mr. Speaker, Hon. Charles G. Washburn, who has been elected to complete the term of the late Hon. Rockwood Hoar, is present and I ask that the oath be administered to him.

The SPEAKER. The Clerk will read the credentials.

The credentials were read.

Mr. Englebright and Mr. Washburn appeared at the bar of the House and took the oath required by law.

COMMITTEE ON MILITARY AFFAIRS.

Mr. HULL. Mr. Speaker, I ask the consent of the House that the Committee on Military Affairs may have leave to sit during the sessions of the House for the rest of this session.

The SPEAKER. The gentleman from Iowa [Mr. HULL] asks unanimous consent that the Committee on Military Affairs may have leave to sit during the sessions of the House for the remainder of the session. Is there objection?

There was no objection.

LEAVES OF ABSENCE.

By unanimous consent, leave of absence was granted to:

Mr. BRICK, for ten days, on account of serious illness in his family.

Mr. LAMAR, until January 8, 1907, on account of sickness.

Mr. CLARK of Florida, indefinitely, on account of sickness in family.

Mr. LINDSAY, until further notice, on account of sickness in family.

Mr. McMOHRAN, for ten days, on account of important business.

Mr. GRIGGS, until January 8, 1907, on account of sickness.